SENATE—*Wednesday, April 23, 1997*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, a very present help in trouble, remind us of all the times You have helped us in our needs. We are quick to cry out for help but often slow to remember the countless times You have intervened to strengthen us.

Thank You for the new confidence that stirs in our hearts today. We collect and then commit to You all of our personal concerns, the challenges we face in government, the troublesome people who sometimes make life difficult, and our friends and loved ones who are presently confronted with adversity.

Especially, Lord, we remember the people in Grand Forks, ND, as they face the difficulties of the flood of the Red River, and we ask for Your blessing and guidance for Senators BYRON DORGAN and KENT CONRAD as they care for their people and give leadership in this emergency.

For Your glory, dear God, resolve problems, give guidance, provide strength.

Today, we also are aware that there are some problems You will not solve until we are ready to be used by You in working out the solutions. Sometimes You wait until we are ready to be a part of the answer You want to give. Show us what You want us to do today. We will leave the results to You. "You are great, and do wondrous things; You alone are God."—Psalm 86:10. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, of Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. Mr. President, this morning, the Senate will begin consideration of the Chemical Weapons Convention Treaty. Under the previous order, there will be 10 hours of debate to be equally divided between the chairman and the ranking member or their designees and 1 hour under the control of Senator LEAHY. Also, in accordance with the agreement, a limited number of amendments are in order to the resolution of ratification.

The Senate will recess at 12:30 p.m. until the hour of 2:15 to allow for the weekly policy meetings, and when the Senate reconvenes, we will resume consideration of the treaty. I hope that perhaps we could get an agreement to have one of the votes occur later on this afternoon. I believe there may have been some discussions on that. If not, we will have the votes on motions to strike, if any. There, I believe, were five agreed to in our unanimous-consent agreement, and, of course, we are anticipating that the final vote will occur sometime tomorrow night, I assume between 5, 6 and 8 o'clock. And, of course, as always, we will notify Senators of anticipated rollcall votes as early as possible. But there would not be one, if any, today until late in the day. There will be a number of votes throughout the day on Thursday, and I urge Senators to be prepared to answer the votes quickly so that we can get through the five motions to strike that may be offered under the agreement and to final passage at a reasonable hour tomorrow.

Also, unless there were a lot of yielding back of time, I do not anticipate that we could finish even in the early afternoon or late afternoon on Thursday. I think it clearly is going to go into the evening.

With that, Mr. President, I would be glad to yield the floor.

Mr. BIDEN. Mr. President, will the majority leader yield?

Mr. LOTT. I will withhold yielding the floor and yield to the Senator from Delaware.

Mr. BIDEN. Before the clock starts to toll here on the 10 hours, I understand the distinguished chairman of the committee is running just a little bit late, and he asked whether or not it would be permissible to have a 10-minute quorum call; is that correct?

Mr. KYL. He is willing to go ahead if you would like.

Mr. BIDEN. I would like to just wait and give the chairman the opportunity to make his statement.

Mr. LOTT. We will put in a quorum then until the chairman is here and ready to resume the discussions. I know they are going to be very interesting.

The Senator from Delaware is not going to go through that whole book, is he?

Mr. BIDEN. Mr. President, I say to the distinguished leader, depending on how many votes we have, I may go through only a very small portion of it.

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

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

We have a number of items that need to be read, under the previous order.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

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.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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 me 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.
>
> 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 fear-mongering 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 Non-proliferation Treaty, to the missile technology control regime, to the CWC itself.

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

CONDITION 31 ON REJECTING CWC INSPECTORS

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

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

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

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

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

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

As Admiral Zumwalt recently testified, "the ability for us to get more access is an important thing to me as a member of the President's Foreign Intelligence Advisory Board; the opportunity to inspect is going to give us 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 the 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 internal oversight office whose functions will be transferred to the Organization for the Prohibition of Chemical Weapons upon the establishment of the Organization. The independent internal oversight office shall be obligated to protect confidential information pursuant to the obligations of the Confidentiality Annex. The independent internal oversight office shall—

(i) make investigations and reports relating to all programs of the Organization;

(ii) undertake both management and financial audits, including—

(I) an annual assessment verifying that classified and confidential information is stored and handled securely pursuant to the general obligations set forth in Article VIII and in accordance with all provisions of the Annex on the Protection of Confidential Information; and

(II) an annual assessment of laboratories established pursuant to paragraph 55 of Part II of the Verification Annex to ensure that the Director General of the Technical Secretariat is carrying out his functions pursuant to paragraph 56 of Part II of the Verification Annex;

(iii) undertake performance evaluations annually to ensure the Organization has complied to the extent practicable with the recommendations of the independent internal oversight office;

(iv) have access to all records relating to the programs and operations of the Organization;

(v) have direct and prompt access to any official of the Organization; and

(vi) be required to protect the identity of, and prevent reprisals against, all complainants.

(B) COMPLIANCE WITH RECOMMENDATIONS.—The Organization shall ensure, to the extent practicable, compliance with recommendations of the independent internal oversight office, and shall ensure that annual and other relevant reports by the independent internal oversight office are made available to all member states pursuant to the requirements established in the Confidentiality Annex.

(C) WITHHOLDING A PORTION OF CONTRIBUTIONS.—Until a certification is made under subparagraph (A), 50 percent of the amount of United States contributions to the regular budget of the Organization assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law.

(D) ASSESSMENT OF FIRST YEAR CONTRIBUTIONS.—Notwithstanding the requirements of this paragraph, for the first year of the Organization's operation, ending on April 29, 1998, the United States shall make its full contribution to the regular budget of the Organization assessed pursuant to paragraph 7 of Article VIII.

(E) DEFINITION.—For purposes of this paragraph, the term "internal oversight office" means the head of an independent office (or other independent entity) established by the Organization to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the Organization.

(4) COST SHARING ARRANGEMENTS.—

(A) ANNUAL REPORTS.—Prior to the deposit of the United States instrument of ratification, and annually thereafter, the President shall submit a report to Congress identifying all cost-sharing arrangements with the Organization.

(B) COST-SHARING ARRANGEMENT REQUIRED.—The United States shall not undertake any new research or development expenditures for the primary purpose of refining or improving the Organization's regime for verification of compliance under the Convention, including the training of inspectors and the provision of detection equipment and on-site analysis sampling and analysis techniques, or share the articles, items, or services resulting from any research and development undertaken previously, without first having concluded and submitted to the Congress a cost-sharing arrangement with the Organization.

(C) CONSTRUCTION.—Nothing in this paragraph may be construed as limiting or constricting in any way the ability of the United States to pursue unilaterally any project undertaken solely to increase the capability of the United States means for monitoring compliance with the Convention.

(5) INTELLIGENCE SHARING AND SAFEGUARDS.—

(A) PROVISION OF INTELLIGENCE INFORMATION TO THE ORGANIZATION.—

(i) IN GENERAL.—No United States intelligence information may be provided to the Organization or any organization affiliated with the Organization, or to any official or employee thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence, in consultation with the Secretary

of State and the Secretary of Defense, has established and implemented procedures, and has worked with the Organization to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information. These procedures shall include the requirement of—

(I) the offer and provision of advice and assistance to the Organization in establishing and maintaining the necessary measures to ensure that inspectors and other staff members of the Technical Secretariat meet the highest standards of efficiency, competence, and integrity, pursuant to paragraph 1(b) of the Confidentiality Annex, and in establishing and maintaining a stringent regime governing the handling of confidential information by the Technical Secretariat, pursuant to paragraph 2 of the Confidentiality Annex;

(II) a determination that any unauthorized disclosure of United States intelligence information to be provided to the Organization or any organization affiliated with the Organization, or any official or employee thereof, would result in no more than minimal damage to United States national security, in light of the risks of the unauthorized disclosure of such information;

(III) sanitization of intelligence information that is to be provided to the Organization to remove all information that could betray intelligence sources and methods; and

(IV) interagency United States intelligence community approval for any release of intelligence information to the Organization, no matter how thoroughly it has been sanitized.

(ii) WAIVER AUTHORITY.—

(I) IN GENERAL.—The Director of Central Intelligence may waive the application of clause (i) if the Director of Central Intelligence certifies in writing to the appropriate committees of Congress that providing such information to the Organization or an organization affiliated with the Organization, or to any official or employee thereof, is in the vital national security interests of the United States and that all possible measures to protect such information have been taken, except that such waiver must be made for each instance such information is provided, or for each such document provided. In the event that multiple waivers are issued within a single week, a single certification to the appropriate committees of Congress may be submitted, specifying each waiver issued during that week.

(II) DELEGATION OF DUTIES.—The Director of Central Intelligence may not delegate any duty of the Director under this paragraph.

(B) PERIODIC AND SPECIAL REPORTS.—

(i) IN GENERAL.—The President shall report periodically, but not less frequently than semiannually, to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the types and volume of intelligence information provided to the Organization or affiliated organizations and the purposes for which it was provided during the period covered by the report.

(ii) EXEMPTION.—For purposes of this subparagraph, intelligence information provided to the Organization or affiliated organizations does not cover information that is provided only to, and only for the use of, appropriately cleared United States Government personnel serving with the Organization or an affiliated organization.

(C) SPECIAL REPORTS.—

(i) REPORT ON PROCEDURES.—Accompanying the certification provided pursuant to subparagraph (A)(i), the President shall provide a detailed report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives identifying the procedures established for protecting intelligence sources and methods when intelligence information is provided pursuant to this section.

(ii) REPORTS ON UNAUTHORIZED DISCLOSURES.—The President shall submit a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives within 15 days after it has become known to the United States Government regarding any unauthorized disclosure of intelligence provided by the United States to the Organization.

(D) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under this section.

(E) RELATIONSHIP TO EXISTING LAW.—Nothing in this paragraph may be construed to—

(i) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5)); or

(ii) supersede or otherwise affect the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(F) DEFINITIONS.—In this section:

(i) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

(ii) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons established under the Convention and includes any organ of that Organization and any board or working group, such as the Scientific Advisory Board, that may be established by it.

(iii) ORGANIZATION AFFILIATED WITH THE ORGANIZATION.—The terms "organization affiliated with the Organization" and "affiliated organizations" include the Provisional Technical Secretariat under the Convention and any laboratory certified by the Director-General of the Technical Secretariat as designated to perform analytical or other functions.

(6) AMENDMENTS TO THE CONVENTION.—

(A) VOTING REPRESENTATION OF THE UNITED STATES.—A United States representative will be present at all Amendment Conferences and will cast a vote, either affirmative or negative, on all proposed amendments made at such conferences.

(B) SUBMISSION OF AMENDMENTS AS TREATIES.—The President shall submit to the Senate for its advice and consent to ratification under Article II, Section 2, Clause 2 of the Constitution of the United States any amendment to the Convention adopted by an Amendment Conference.

(7) CONTINUING VITALITY OF THE AUSTRALIA GROUP AND NATIONAL EXPORT CONTROLS.—

(A) DECLARATION.—The Senate declares that the collapse of the informal forum of states known as the "Australia Group," either through changes in membership or lack of compliance with common export controls, or the substantial weakening of common Australia Group export controls and nonproliferation measures in force on the date of United States ratification of the Convention, would constitute a fundamental change in circumstances to United States ratification of the Convention.

(B) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(i) nothing in the Convention obligates the United States to accept any modification, change in scope, or weakening of its national export controls;

(ii) the United States understands that the maintenance of national restrictions on trade in chemicals and chemical production technology is fully compatible with the provisions of the Convention, including Article XI(2), and solely within the sovereign jurisdiction of the United States;

(iii) the Convention preserves the right of State Parties, unilaterally or collectively, to maintain or impose export controls on chemicals and related chemical production technology for foreign policy or national security reasons, notwithstanding Article XI(2); and

(iv) each Australia Group member, at the highest diplomatic levels, has officially communicated to the United States Government its understanding and agreement that export control and nonproliferation measures which the Australia Group has undertaken are fully compatible with the provisions of the Convention, including Article XI(2), and its commitment to maintain in the future such export controls and nonproliferation measures against non-Australia Group members.

(C) ANNUAL CERTIFICATION.—

(i) EFFECTIVENESS OF AUSTRALIA GROUP.—The President shall certify to Congress on an annual basis that—

(I) Australia Group members continue to maintain an equally effective or more comprehensive control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of ratification of the Convention by the United States; and

(II) the Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials and technology, and that the effectiveness of the Australia Group has not been undermined by changes in membership, lack of compliance with common export controls and nonproliferation measures, or the weakening of common controls and nonproliferation measures, in force as of the date of ratification of the Convention by the United States.

(ii) CONSULTATION WITH SENATE REQUIRED.—In the event that the President is, at any time, unable to make the certifications described in clause (i), the President shall consult with the Senate for the purposes of obtaining a resolution of continued adherence to the Convention, notwithstanding the fundamental change in circumstance.

(D) PERIODIC CONSULTATION WITH CONGRESSIONAL COMMITTEES.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export control and nonproliferation measures. If any Australia Group member adopts a position at variance with the certifications and understandings provided under subparagraph (B), or should seek to gain Australia Group acquiescence or approval for an interpretation that various

provisions of the Convention require it to remove chemical-weapons related export controls against any State Party to the Convention, the President shall block any effort by that Australia Group member to secure Australia Group approval of such a position or interpretation.

(E) DEFINITIONS.—In this paragraph:

(i) AUSTRALIA GROUP.—The term "Australia Group" means the informal forum of states, chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls chemical weapons precursor chemicals, biological weapons pathogens, and dual-use production equipment, and through other measures.

(ii) HIGHEST DIPLOMATIC LEVELS.—The term "highest diplomatic levels" means at the levels of senior officials with the power to authoritatively represent their governments, and does not include diplomatic representatives of those governments to the United States.

(8) NEGATIVE SECURITY ASSURANCES.—

(A) REEVALUATION.—In forswearing under the Convention the possession of a chemical weapons retaliatory capability, the Senate understands that deterrence of attack by chemical weapons requires a reevaluation of the negative security assurances extended to non-nuclear-weapon states.

(B) CLASSIFIED REPORT.—Accordingly, 180 days after the deposit of the United States instrument of ratification, the President shall submit to the Congress a classified report setting forth the findings of a detailed review of United States policy on negative security assurances, including a determination of the appropriate responses to the use of chemical or biological weapons against the Armed Forces of the United States, United States citizens, allies, and third parties.

(9) PROTECTION OF ADVANCED BIOTECHNOLOGY.—Prior to the deposit of the United States instrument of ratification, and on January 1 of every year thereafter, the President shall certify to the Committee on Foreign Relations and the Speaker of the House of Representatives that the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1 of the Annex on Chemicals.

(10) MONITORING AND VERIFICATION OF COMPLIANCE.—

(A) DECLARATION.—The Senate declares that—

(i) the Convention is in the interests of the United States only if all State Parties are in strict compliance with the terms of the Convention as submitted to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply; and

(ii) the Senate expects all State Parties to be in strict compliance with their obligations under the terms of the Convention, as submitted to the Senate for its advice and consent to ratification;

(B) BRIEFINGS ON COMPLIANCE.—Given its concern about the intelligence community's low level of confidence in its ability to monitor compliance with the Convention, the Senate expects the executive branch of the Government to offer regular briefings, not less than four times a year, to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on compliance issues related to the Convention. Such briefings shall include a description of all United States efforts in bilateral and multilateral diplomatic channels and forums to resolve compliance issues and shall include a complete description of—

(i) any compliance issues the United States plans to raise at meetings of the Organization, in advance of such meetings;

(ii) any compliance issues raised at meetings of the Organization, within 30 days of such meeting;

(iii) any determination by the President that a State Party is in noncompliance with or is otherwise acting in a manner inconsistent with the object or purpose of the Convention, within 30 days of such a determination.

(C) ANNUAL REPORTS ON COMPLIANCE.—The President shall submit on January 1 of each year to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) a certification of those countries included in the Intelligence Community's Monitoring Strategy, as set forth by the Director of Central Intelligence's Arms Control Staff and the National Intelligence Council (or any successor document setting forth intelligence priorities in the field of the proliferation of weapons of mass destruction) that are determined to be in compliance with the Convention, on a country-by-country basis;

(ii) for those countries not certified pursuant to clause (i), an identification and assessment of all compliance issues arising with regard to the adherence of the country to its obligation under the Convention;

(iii) the steps the United States has taken, either unilaterally or in conjunction with another State Party—

(I) to initiate challenge inspections of the noncompliant party with the objective of demonstrating to the international community the act of noncompliance;

(II) to call attention publicly to the activity in question; and

(III) to seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(iv) a determination of the military significance and broader security risks arising from any compliance issue identified pursuant to clause (ii); and

(v) a detailed assessment of the responses of the noncompliant party in question to action undertaken by the United States described in clause (iii).

(D) COUNTRIES PREVIOUSLY INCLUDED IN COMPLIANCE REPORTS.—For any country that was previously included in a report submitted under subparagraph (C), but which subsequently is not included in the Intelligence Community's Monitoring Strategy (or successor document), such country shall continue to be included in the report submitted under subparagraph (C) unless the country has been certified under subparagraph (C)(i) for each of the previous two years.

(E) FORM OF CERTIFICATIONS.—For those countries that have been publicly and officially identified by a representative of the intelligence community as possessing or seeking to develop chemical weapons, the certification described in subparagraph (C)(i) shall be in unclassified form.

(F) ANNUAL REPORTS ON INTELLIGENCE.—On January 1, 1998, and annually thereafter, the Director of Central Intelligence shall submit to the Committees on Foreign Relations, Armed Services, and the Select Committee on Intelligence of the Senate and to the Committees on International Relations, National Security, and Permanent Select Committee of the House of Representatives, a full and complete classified and unclassified report regarding—

(i) the status of chemical weapons development, production, stockpiling, and use, within the meanings of those terms under the Convention, on a country-by-country basis;

(ii) any information made available to the United States Government concerning the development, production, acquisition, stockpiling, retention, use, or direct or indirect transfer of novel agents, including any unitary or binary chemical weapon comprised of chemical components not identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iii) the extent of trade in chemicals potentially relevant to chemical weapons programs, including all Australia Group chemicals and chemicals identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iv) the monitoring responsibilities, practices, and strategies of the intelligence community (as defined in section 3(4) of the National Security Act of 1947) and a determination of the level of confidence of the intelligence community with respect to each specific monitoring task undertaken, including an assessment by the intelligence community of the national aggregate data provided by State Parties to the Organization, on a country-by-country basis;

(v) an identification of how United States national intelligence means, including national technical means and human intelligence, is being marshaled together with the Convention's verification provisions to monitor compliance with the Convention; and

(vi) the identification of chemical weapons development, production, stockpiling, or use, within the meanings of those terms under the Convention, by subnational groups, including terrorist and paramilitary organizations.

(G) REPORTS ON RESOURCES FOR MONITORING.—Each report required under subparagraph (F) shall include a full and complete classified annex submitted solely to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee of the House of Representatives regarding—

(i) a detailed and specific identification of all United States resources devoted to monitoring the Convention, including information on all expenditures associated with the monitoring of the Convention; and

(ii) an identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical and biological weapons, including a description of the steps being taken and resources being devoted to strengthening United States monitoring capabilities.

(11) ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.—

(A) SENSE OF THE SENATE.—It is the sense of the Senate that—

(i) chemical and biological threats to deployed United States Armed Forces will continue to grow in regions of concern around the world, and pose serious threats to United States power projection and forward deployment strategies;

(ii) chemical weapons or biological weapons use is a potential element of future conflicts in regions of concern;

(iii) it is essential for the United States and key regional allies to preserve and further develop robust chemical and biological defenses;

(iv) the United States Armed Forces are inadequately equipped, organized, trained and exercised for chemical and biological defense against current and expected threats, and that too much reliance is placed on non-active duty forces, which receive less training and less modern equipment, for critical chemical and biological defense capabilities;

(v) the lack of readiness stems from a deemphasis of chemical and biological defenses within the executive branch of Government and the United States Armed Forces;

(vi) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(vii) congressional direction contained in the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201) should lead to enhanced domestic preparedness to protect against chemical and biological weapons threats; and

(viii) the United States Armed Forces should place increased emphasis on potential threats to forces deployed abroad and, in particular, make countering chemical and biological weapons use an organizing principle for United States defense strategy and development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(B) ACTIONS TO STRENGTHEN DEFENSE CAPABILITIES.—The Secretary of Defense shall take those actions necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans, despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in a chemically or biologically contaminated environment that are critical to the success of the United States military plans in regional conflicts, including—

(i) deployment, logistics, and reinforcement operations at key ports and airfields;

(ii) sustained combat aircraft sortie generation at critical regional airbases; and

(iii) ground force maneuvers of large units and divisions.

(C) DISCUSSIONS WITH REGIONAL ALLIES AND LIKELY COALITION PARTNERS.—

(i) IN GENERAL.—The Secretaries of Defense and State shall, as a priority matter, initiate discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(ii) REPORTING REQUIREMENT.—Not later than one year after deposit of the United States instrument of ratification, the Secretaries of Defense and State shall submit a report to the Committees on Foreign Relations and Armed Services of the Senate and to the Speaker of the House on the result of these discussions, plans for future discussions, measures agreed to improve the preparedness of foreign forces and civilians, and proposals for increased military assistance, including through the Foreign Military Sales, Foreign Military Financing, and the International Military Education and Training programs pursuant to the Foreign Assistance Act of 1961.

(D) UNITED STATES ARMY CHEMICAL SCHOOL.—The Secretary of Defense shall take those actions necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(E) SENSE OF THE SENATE.—Given its concerns about the present state of chemical and biological defense readiness and training, it is the sense of the Senate that—

(i) in the transfer, consolidation, and reorganization of the United States Army Chemical School, the Army should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment;

(ii) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement training facility at Fort Leonard Wood is functional.

(F) ANNUAL REPORTS ON CHEMICAL AND BIOLOGICAL WEAPONS DEFENSE ACTIVITIES.—On January 1, 1998, and annually thereafter, the President shall submit a report to the Committees on Foreign Relations, Appropriations, and Armed Services of the Senate and the Committee on International Relations, National Security, and Appropriations of the House of Representatives, and Speaker of the House on previous, current, and planned chemical and biological weapons defense activities. The report shall contain for the previous fiscal year and for the next three fiscal years—

(i) proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 report of the General Accounting Office entitled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subparagraph (B) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons;

(ii) identification of the priorities of the executive branch of Government in the development of both active and passive chemical and biological defenses;

(iii) a detailed summary of all budget activities associated with the research, development, testing, and evaluation of chemical and biological defense programs;

(iv) a detailed summary of expenditures on research, development, testing, and evaluation, and procurement of chemical and biological defenses by fiscal years defense programs, department, and agency;

(v) a detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(vi) a detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure to reinforce United States power-projection forces, including progress in developing a nonaqueous chemical decontamination capability;

(vii) a description of progress made in procuring light-weight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battle-dress overgarments and chemical protective overgarments to maintain required wartime inventory levels;

(viii) a description of progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multi-chemical agent detector, unmanned aerial vehicles, and unmanned ground sensors;

(ix) a description of progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist in mitigating chemical and biological contamination through higher altitude intercepts and boost-phase intercepts;

(x) an assessment of—

(I) the training and readiness of the United States Armed Forces to operate in a chemically or biologically contaminated environment; and

(II) actions taken to sustain training and readiness, including training and readiness carried out at national combat training centers;

(xi) a description of progress made in incorporating chemical and biological considerations into service and joint exercises as well as simulations, models, and war games and the conclusions drawn from these efforts about the United States capability to carry out required missions, including missions with coalition partners, in military contingencies;

(xii) a description of progress made in developing and implementing service and joint doctrine for combat and non-combat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces; and

(xiii) a description of progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack, including plans for inoculation of populations, consequence management, and a description of progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

(12) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Convention requires or authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States.

(13) NONCOMPLIANCE.—

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party to the Convention is maintaining a chemical weapons production or production mobilization capability, is developing new chemical agents, or is in violation of the Convention in any other manner so as to threaten the national security interests of the United States, then the President shall—

(i) consult with the Senate, and promptly submit to it, a report detailing the effect of such actions;

(ii) seek on an urgent basis a challenge inspection of the facilities of the relevant

party in accordance with the provisions of the Convention with the objective of demonstrating to the international community the act of noncompliance;

(iii) seek, or encourage, on an urgent basis a meeting at the highest diplomatic level with the relevant party with the objective of bringing the noncompliant party into compliance;

(iv) implement prohibitions and sanctions against the relevant party as required by law;

(v) if noncompliance has been determined, seek on an urgent basis within the Security Council of the United Nations a multilateral imposition of sanctions against the noncompliant party for the purposes of bringing the noncompliant party into compliance; and

(vi) in the event that the noncompliance continues for a period of longer than one year after the date of the determination made pursuant to subparagraph (A), promptly consult with the Senate for the purposes of obtaining a resolution of support of continued adherence to the Convention, notwithstanding the changed circumstances affecting the object and purpose of the Convention.

(B) CONSTRUCTION.—Nothing in this section may be construed to impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5)).

(C) PRESIDENTIAL DETERMINATIONS.—If the President determines that an action otherwise required under subparagraph (A) would impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure, the President shall report that determination, together with a detailed written explanation of the basis for that determination, to the chairmen of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence not later than 15 days after making such determination.

(14) FINANCING RUSSIAN IMPLEMENTATION.—The United States understands that, in order to be assured of the Russian commitment to a reduction in chemical weapons stockpiles, Russia must maintain a substantial stake in financing the implementation of both the 1990 Bilateral Destruction Agreement and the Convention. The United States shall not accept any effort by Russia to make deposit of Russia's instrument of ratification contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia under the 1990 Bilateral Destruction Agreement or the Convention.

(15) ASSISTANCE UNDER ARTICLE X.—

(A) IN GENERAL.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that the United States shall not provide assistance under paragraph 7(a) of Article X.

(B) COUNTRIES INELIGIBLE FOR CERTAIN ASSISTANCE UNDER THE FOREIGN ASSISTANCE ACT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that for any State Party the government of which is not eligible for assistance under chapter 2 of part II (relating to military assistance) or chapter 4 of part II (relating to economic support assistance) of the Foreign Assistance Act of 1961—

(i) no assistance under paragraph 7(b) of Article X will be provided to the State Party; and

(ii) no assistance under paragraph 7(c) of Article X other than medical antidotes and treatment will be provided to the State Party.

(16) PROTECTION OF CONFIDENTIAL INFORMATION.—

(A) UNAUTHORIZED DISCLOSURE OF UNITED STATES BUSINESS INFORMATION.—Whenever the President determines that persuasive information is available indicating that—

(i) an officer or employee of the Organization has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, and

(ii) such practice or disclosure has resulted in financial losses or damages to a United States person,

the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination.

(B) WAIVER OF IMMUNITY FROM JURISDICTION.—

(i) CERTIFICATION.—Not later than 270 days after notification of Congress under subparagraph (A), the President shall certify to Congress that the immunity from jurisdiction of such foreign person has been waived by the Director-General of the Technical Secretariat.

(ii) WITHHOLDING OF PORTION OF CONTRIBUTIONS.—If the President is unable to make the certification described under clause (i), then 50 percent of the amount of each annual United States contribution to the regular budget of the Organization that is assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law, until—

(I) the President makes such certification, or

(II) the President certifies to Congress that the situation has been resolved in a manner satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(C) BREACHES OF CONFIDENTIALITY.—

(i) CERTIFICATION.—In the case of any breach of confidentiality involving both a State Party and the Organization, including any officer or employee thereof, the President shall, within 270 days after providing written notification to Congress pursuant to subparagraph (A), certify to Congress that the Commission described under paragraph 23 of the Confidentiality Annex has been established to consider the breach.

(ii) WITHHOLDING OF PORTION OF CONTRIBUTIONS.—If the President is unable to make the certification described under clause (i), then 50 percent of the amount of each annual United States contribution to the regular budget of the Organization that is assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law, until—

(I) the President makes such certification, or

(II) the President certifies to Congress that the situation has been resolved in a manner satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(D) DEFINITIONS.—In this paragraph:

(i) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.—The term "United States confidential business information" means any trade secrets or commercial or financial information that is privileged and confidential, as described in section 552(b)(4) of title 5, United States Code, and that is obtained—

(I) from a United States person; and

(II) through the United States National Authority or the conduct of an inspection on United States territory under the Convention.

(ii) UNITED STATES PERSON.—The term "United States person" means any natural person or any corporation, partnership, or other juridical entity organized under the laws of the United States.

(iii) UNITED STATES.—The term "United States" means the several States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

(17) CONSTITUTIONAL PREROGATIVES.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Article II, Section 2, Clause 2 of the United States Constitution states that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur".

(ii) At the turn of the century, Senator Henry Cabot Lodge took the position that the giving of advice and consent to treaties constitutes a stage in negotiation on the treaties and that Senate amendments or reservations to a treaty are propositions "offered at a later stage of the negotiation by the other part of the American treaty making power in the only manner in which they could then be offered".

(iii) The executive branch of Government has begun a practice of negotiating and submitting to the Senate treaties which include provisions that have the purported effect of—

(I) inhibiting the Senate from attaching reservations that the Senate considers necessary in the national interest; or

(II) preventing the Senate from exercising its constitutional duty to give its advice and consent to treaty commitments before ratification of the treaties.

(iv) During the 85th Congress, and again during the 102d Congress, the Committee on Foreign Relations of the Senate made its position on this issue clear when stating that "the President's agreement to such a prohibition cannot constrain the Senate's constitutional right and obligation to give its advice and consent to a treaty subject to any reservation it might determine is required by the national interest".

(B) SENSE OF THE SENATE.—It is the sense of the Senate that—

(i) the advice and consent given by the Senate in the past to ratification of treaties containing provisions which prohibit amendments or reservations should not be construed as a precedent for such provisions in future treaties;

(ii) United States negotiators to a treaty should not agree to any provision that has the effect of inhibiting the Senate from attaching reservations or offering amendments to the treaty; and

(iii) the Senate should not consent in the future to any article or other provision of any treaty that would prohibit the Senate from giving its advice and consent to ratification of the treaty subject to amendment or reservation.

(18) LABORATORY SAMPLE ANALYSIS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(19) EFFECT ON TERRORISM.—The Senate finds that—

(A) without regard to whether the Convention enters into force, terrorists will likely view chemical weapons as a means to gain greater publicity and instill widespread fear; and

(B) the March 1995 Tokyo subway attack by the Aum Shinrikyo would not have been prevented by the Convention.

(20) CONSTITUTIONAL SEPARATION OF POWERS.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Article VIII(8) of the Convention allows a State Party to vote in the Organization if the State Party is in arrears in the payment of financial contributions and the Organization is satisfied that such nonpayment is due to conditions beyond the control of the State Party.

(ii) Article I, Section 8 of the United States Constitution vests in Congress the exclusive authority to "pay the Debts" of the United States.

(iii) Financial contributions to the Organization may be appropriated only by Congress.

(B) SENSE OF SENATE.—It is therefore the sense of the Senate that—

(i) such contributions thus should be considered, for purposes of Article VIII(8) of the Convention, beyond the control of the executive branch of the United States Government; and

(ii) the United States vote in the Organization should not be denied in the event that Congress does not appropriate the full amount of funds assessed for the United States financial contribution to the Organization.

(21) ON-SITE INSPECTION AGENCY.—It is the sense of the Senate that the On-Site Inspection Agency of the Department of Defense should have the authority to provide assistance in advance of any inspection to any facility in the United States that is subject to a routine inspection under the Convention, or to any facility in the United States that is the object of a challenge inspection conducted pursuant to Article IX, if the consent of the owner or operator of the facility has first been obtained.

(22) LIMITATION ON THE SCALE OF ASSESSMENT.—

(A) LIMITATION ON ANNUAL ASSESSMENT.—Notwithstanding any provision of the Convention, and subject to the requirements of subparagraphs (B), (C), and (D) the United States shall pay as a total annual assessment of the costs of the Organization pursuant to paragraph 7 of Article VIII not more than $25,000,000.

(B) RECALCULATION OF LIMITATION.—On January 1, 2000, and at each 3-year interval thereafter, the amount specified in subparagraph (A) is to be recalculated by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

(C) ADDITIONAL CONTRIBUTIONS REQUIRING CONGRESSIONAL APPROVAL.—

(i) AUTHORITY.—Notwithstanding subparagraph (A), the President may furnish additional contributions which would otherwise be prohibited under subparagraph (A) if—

(I) the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the failure to provide such contributions would result in the inability of the Organization to conduct challenge inspections pursuant to Article IX or would otherwise jeopardize the national security interests of the United States; and

(II) Congress enacts a joint resolution approving the certification of the President.

(ii) STATEMENT OF REASONS.—The President shall transmit with such certification a detailed statement setting forth the specific reasons therefor, and the specific uses to which the additional contributions provided to the Organization would be applied.

(D) ADDITIONAL CONTRIBUTIONS FOR VERIFICATION.—Notwithstanding subparagraph (A), for a period of not more than ten years, the President may furnish additional contributions to the Organization for the purposes of meeting the costs of verification under Articles IV and V.

(23) ADDITIONS TO THE ANNEX ON CHEMICALS.—

(A) PRESIDENTIAL NOTIFICATION.—Not later than 10 days after the Director-General of the Technical Secretariat communicates information to all States Parties pursuant to Article XV(5)(a) of a proposal for the addition of a chemical or biological substance to a schedule of the Annex on Chemicals, the President shall notify the Committee on Foreign Relations of the Senate of the proposed addition.

(B) PRESIDENTIAL REPORT.—Not later than 60 days after the Director-General of the Technical Secretariat communicates information of such a proposal pursuant to Article XV(5)(a) or not later than 30 days after a positive recommendation by the Executive Council pursuant to Article XV(5)(c), whichever is sooner, the President shall submit to the Committee on Foreign Relations of the Senate a report, in classified and unclassified form, detailing the likely impact of the proposed addition to the Annex on Chemicals. Such report shall include—

(i) an assessment of the likely impact on United States industry of the proposed addition of the chemical or biological substance to a schedule of the Annex on Chemicals;

(ii) a description of the likely costs and benefits, if any, to United States national security of the proposed addition of such chemical or biological substance to a schedule of the Annex on Chemicals; and

(iii) a detailed assessment of the effect of the proposed addition on United States obligations under the Verification Annex.

(C) PRESIDENTIAL CONSULTATION.—The President shall, after the submission of the notification required under subparagraph (A) and prior to any action on the proposal by the Executive Council under Article XV(5)(c), consult promptly with the Senate as to whether the United States should object to the proposed addition of a chemical or biological substance pursuant to Article XV(5)(c).

(24) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the Constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification with respect to the INF Treaty. For purposes of this declaration, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

(25) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power as set forth in Article II, section 2, clause 2 of the Constitution.

(26) RIOT CONTROL AGENTS.—

(A) PERMITTED USES.—Prior the the deposit of the United States instrument of ratification, the President shall certify to Congress that the United States is not restricted by the Convention in its use of riot control agents, including the use against combatants who are parties to a conflict, in any of the following cases:

(i) UNITED STATES NOT A PARTY.—The conduct of peacetime military operations within an area of ongoing armed conflict when the United States is not a party to the conflict (such as recent use of the United States Armed Forces in Somalia, Bosnia, and Ruanda).

(ii) CONSENSUAL PEACEKEEPING.—Consensual peacekeeping operations when the use of force is authorized by the receiving state, including operations pursuant to Chapter VI of the United Nations Charter.

(iii) CHAPTER VII PEACEKEEPING.—Peacekeeping operations when force is authorized by the Securtity Council under Chapter VII of the United Nations Charter.

(B) IMPLEMENTATION.—The President shall take no measure, and prescribe no rule or regulation, which would alter or eliminate Executive Order 11850 of April 8, 1975.

(C) DEFINITION.—In this paragraph, the term "riot control agent" has the meaning given the term in Article II(7) of the Convention.

(27) CHEMICAL WEAPONS DESTRUCTION.—Prior to the deposit of the United States instrument of ratification of the Convention, the President shall certify to the Congress that all of the following conditions are satisfied:

(A) EXPLORATION OF ALTERNATIVE TECHNOLOGIES.—The President has agreed to explore alternative technologies for the destruction of the United States stockpile of chemical weapons in order to ensure that the United States has the safest, most effective and environmentally sound plans and programs for meeting its obligations under the Convention for the destruction of chemical weapons.

(B) CONVENTION EXTENDS DESTRUCTION DEADLINE.—The requirement in section 1412 of Public Law 99-145 (50 U.S.C. 1521) for completion of the destruction of the United States stockpile of chemical weapons by December 31, 2004, will be superseded upon the date the Convention enters into force with respect to the United States by the deadline required by the Convention of April 29, 2007.

(C) AUTHORITY TO EMPLOY A DIFFERENT DESTRUCTION TECHNOLOGY.—The requirement in Article III(1)(a)(v) of the Convention for a declaration by each State Party not later than 30 days after the date the Convention enters into force with respect to that Party, on general plans of the State Party for destruction of its chemical weapons does not preclude in any way the United States from deciding in the future to employ a technology for the destruction of chemical weapons different than that declared under that Article.

(D) PROCEDURES FOR EXTENSION OF DEADLINE.—The President will consult with Congress on whether to submit a request to the Executive Council of the Organization for an

extension of the deadline for the destruction of chemical weapons under the Convention, as provided under part IV(A) of the Annex on Implementation and Verification to the Convention, if, as a result of the program of alternative technologies for the destruction of chemical munitions carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (as contained in Public Law 104–208), the President determines that alternatives to the incineration of chemical weapons are available that are safer and more environmentally sound but whose use would preclude the United States from meeting the deadlines of the Convention.

(28) CONSTITUTIONAL PROTECTION AGAINST UNREASONABLE SEARCH AND SEIZURE.—

(A) IN GENERAL.—In order to protect United States citizens against unreasonable searches and seizures, prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(i) for any challenge inspection conducted on the territory of the United States pursuant to Article IX, where consent has been withheld, the United States National Authority will first obtain a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the persons or things to be seized; and

(ii) for any routine inspection of a declared facility under the Convention that is conducted on an involuntary basis on the territory of the United States, the United States National Authority first will obtain an administrative search warrant from a United States magistrate judge.

(B) DEFINITION.—For purposes of this resolution, the term "National Authority" means the agency or office of the United States Government designated by the United States pursuant to Article VII(4) of the Convention.

The PRESIDING OFFICER. The Chair advises that under the previous order the five remaining conditions are now part of the resolution and are open to motions to strike.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask that the RECORD reflect my "aye" vote on the two resolutions just voted, and that the RECORD also reflect that Senator SMITH of New Hampshire voted "aye."

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield 10 seconds.

Mr. WARNER. Mr. President, I wish the RECORD to reflect that the Senator from Virginia was on the floor present and voting "aye" on the resolution.

Mr. KYL. Mr. President, may I further ask that the RECORD reflect that the Senator from Florida, Senator MACK, was present and voting "aye"; and that Senator KEMPTHORNE, Senator ABRAHAM, Senator ROBERTS, and Senator HUTCHINSON also voted "aye."

The PRESIDING OFFICER. Who yields time?

PRIVILEGE OF THE FLOOR

Mr. BIDEN. Mr. President, will the Senator yield 10 seconds for a unanimous-consent request regarding a staff member?

Mr. President, I ask unanimous consent that Greg Suchan, a fellow on the staff of Senator MCCAIN, be granted the privilege of the floor during the discussion of the Chemical Weapons Convention.

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

Mr. BIDEN. I thank the Chair.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, we are now going to commence additional debate on the Chemical Weapons Convention. I would like to begin with some general observations about treaties in general and about this treaty in particular.

Mr. President, I want to begin by making what should be an obvious point. But in view of some of the rhetoric, I think it is important to reiterate it; that is, that the opponents of the Chemical Weapons Convention abhor chemical weapons just as much as proponents do. If this treaty performs as it is advertised to perform, I think everyone in this body would be supportive of it. Certainly those who oppose the convention support eliminating our chemical weapons, which will happen with or without the Chemical Weapons Convention.

As has been noted by previous speakers, the United States is committed to eliminating all of our chemical weapons, and I suspect that everyone in this Chamber supports that position. So opposition is not based on the notion that we would retain our chemical weapons.

Mr. President, I also ask that the RECORD reflect that the Senator from Iowa, Senator GRASSLEY, was present and voted "aye" on the last two votes.

Mr. President, let me move forward to this proposition. Last week the Senate approved Senate Resolution 495, which demonstrates our commitment to do more. Whether one supports the Chemical Weapons Convention or not, this was an important bill to demonstrate our commitment, both here at home and abroad, to do more to try to stop the spread of chemical weapons, and not doing it alone, as my friend from Delaware has said, because Senate Resolution 495 contains several provisions that call for additional multilateral action on the part of the United States. It requires the President, for example, to use his best efforts to keep the Australia Group intact and to work against any weakening of the Australia Group restrictions on trade in chemicals; to work with Russia to ensure that it conforms to its obligations under the bilateral destruction agreement; for the President to impose sanctions on countries that violate international law with respect to chemical weapons.

So Senate Resolution 495 was not a go-it-alone resolution. Quite to the contrary. Though it did close some loopholes in American law, it also reached out in various specific ways to enable us to deal with the problem of the spread of chemical weapons in more practical and specific ways than the Chemical Weapons Convention itself does.

We have just had a vote on the resolution of ratification as presented by Senator HELMS, the resolution that is currently before us. Many of us voted for that resolution, to make the point that we favor the Chemical Weapons Convention so long as it has certain protections built into it. I think it should also be clear that the opposition to the Chemical Weapons convention is not based on politics.

As one of my colleagues said, there will be criticism of President Clinton. I don't think you will hear criticism of President Clinton. The opposition to this treaty is not based on politics. Indeed, it is not an easy treaty to oppose. I think those who oppose it must be recognized as doing so because of a firm principle and commitment rather than anything political.

Another general point I would like to make is this. The Senate has a constitutional obligation to independently scrutinize treaties. It has been said that treaties are forever. Most of the treaties that have been ratified by the U.S. Senate are still in force—treaties that are many, many, many years old, some undoubtedly far beyond this time. It is like amending the Constitution. It requires a two-thirds vote. It requires a great deal of thought, therefore, on the part of the Senate.

Mr. President, we are not a rubber stamp. No one should feel that they have to support this treaty just because it has been proposed. Treaties are no substitute for sensible action. They are in many respects inherently limited in their value, especially when the nations with whom they are entered into are not committed to the principles of the treaty. There are examples in past history that demonstrate this.

The Kellogg-Briand Pact of 1928, which outlawed war, was obviously something that everyone felt good about supporting. But the actions didn't follow the words, and we know what happened.

Also, this morning one of my colleagues quoted Will Rogers, who said, "We have never lost a war or won a treaty." While that has a certain ring of truth to it, I don't think anyone would suggest that, therefore, all treaties are bad. As a matter of fact, we have supported very specific treaties that we think have done some good—arms control treaties like the INF Treaty, the START I Treaty, and the START II Treaty. As a matter of fact, I was asked to support the START II

Treaty on the grounds that Russia would not ratify the START II Treaty until the United States did. So we did. We support the START II Treaty. It was ratified here. And 2 years later, the Russians still have not ratified the START II Treaty. So I agree with my colleagues who say that some treaties can be useful. I also make the point that one should not rely strictly on treaties.

I also am troubled by the proposition that we somehow feel that we could do internationally that which we could never do domestically. I don't think any of us would contend, for example, that we think we can solve the problem of crime by going to the criminals in our neighborhoods and making a treaty with them to stop committing crime. Instead, we have police forces, we have laws, we have specific punishments, we have a court system, and we put people in prison when they violate those laws. In other words, we take specific action to deal with the problem. We don't rely upon the written word of someone who may be unreliable. Yet, in the international forum that seems to be very much in vogue.

I don't think there is any reason that we can believe that a treaty with Iran, for example, is going to change its behavior, or Iraq, or Libya, or North Korea, or many of the other rogue states throughout the world. I think it is countries like Iran that want the benefits of the CWC and the lifting of the trade restrictions that we currently have with Iran, secure in the knowledge that it can avoid detection and/or any punishment that might follow that. Treaties generally do not modify the behavior of states. The law-abiding will abide, and those that intend to cheat will either cheat or not join at all.

That is why these multilateral treaties, unlike some of the bilateral treaties that we entered into earlier, are more difficult to make work. Frequently what they do is complicate diplomacy and encourage dishonesty. We know that there are numerous examples of violations of existing treaties and previous treaties. But it was uncomfortable for us to bring those violations to light because, frankly, we thought that we had bigger fish to fry. We had more important matters with those states than the violation of a particular treaty. As a result, paradoxically it was more difficult to enforce these conditions once the treaty went into effect than it was before, because once the treaty went into effect, in order to upset the applecart, we have to find violations. We take it to the body that is going to find a violation and sanction, and we decide that would be diplomatically difficult because we want to accomplish some greater purpose with the state that is in violation. So we just forget the whole thing. What that does is literally put into law the violations that are occurring currently. So they can complicate diplomacy and encourage dishonesty.

The bottom line about this general discussion is this: Sometimes treaties can be very useful and sometimes not. We have an obligation to make that distinction—not just to take the word that, if a treaty has been proposed, we have an obligation to support it. That is not the job of the U.S. Senate. Treaties are not an excuse to do that which is difficult. It is like making a New Year's resolution rather than beginning to diet. Sometimes we have to have the courage to begin the diet rather than just relying on a New Year's resolution.

Mr. President, a second set of general comments:

Reasonable people can differ over the Chemical Weapons Convention. We have a series of former governmental officials on both sides of this issue. We have former Secretaries of Defense, ambassadors, generals, columnists—all of whom have come out very publicly against the treaty. There is undoubtedly an equal number who have come out for the chemical weapons treaty. I hope we can begin this debate with the proposition that reasonable people can differ on this very important matter. Frankly, when former Secretaries of State—like Dick Cheney, Casper Weinberger, Don Rumsfeld, James Schlesinger; former Defense officials, such as Jeane Kirkpatrick and Richard Perle, Gen. P.X. Kelley, and Freddie Clay—when people like this say that they are opposed to the treaty, it ought to be clear that there are reasonable arguments on both sides and that neither side should claim that all right and truth and justice are on their side.

Important columnists have also weighed in to this and find themselves on both sides of the issue.

That is why I am troubled by the slogan of some people in the administration—and, in particular, I will cite the Secretary of State, who has said on national television that one of the reasons to vote for this treaty is that it has "Made in America" written all over it. Mr. President, that is not a substitute for reasoned argument. It is a slogan. It misrepresents the Reagan administration's position on the chemical weapons treaty, which, by the way, was very much different than the treaty that is before the Senate today.

I can point out the fact that there have been other treaties proposed to the U.S. Senate that also had "Made in America" written all over them—like the League of Nations, which this Senate in its judgment decided not to rubberstamp but to reject.

There were cries at the time similar to the cries you hear today that it would isolate America; that it would hurt our business; that we would be the laughingstock of the world; that, after all, President Wilson was the one who created this treaty and how could we vote against it. Moreover, we would be the pariah in the world if we voted against the League of Nations. But in 1919, this body exercised its judgment, its constitutional prerogative and it declined to allow the United States to participate. And I do not think today there are very many people who believe this country made a mistake by waiting and creating instead the United Nations.

We, I think, should be able to go forward. I think it takes more courage sometimes to go forward with a position that acknowledges a mistake than it does to simply blindly go forward and perhaps have in the back of your mind the idea that you have made a mistake but it would not look good if you backed out at this time.

That is another one of the arguments being made by the opponents; we would be embarrassed internationally if we backed out of the treaty at this point or caused part of it to be renegotiated. I submit that knowing we have made a mistake at least with regard to articles X and XI in this treaty, we should have the courage to fix articles X and XI before our resolution of ratification is deposited at The Hague.

Now another general comment, Mr. President. No one has a monopoly on morality. Ours is a disagreement about means, not about ends. I want to make this point very clear because some people, perhaps a little overzealous to push this treaty, have inferred that those who vote against it somehow support the use of chemical weapons. I watched my grandfather die, Mr. President, from emphysema acquired as a result of his being gassed in World War I in Europe. Therefore, I take a back seat to no one in expressing my abhorrence for these despicable weapons and why I fully support the United States eliminating our chemical weapons and leading the world in that regard. We are the only country in the world with chemical weapons that has declared we will eliminate all of our stocks of those weapons.

So I hope no one tries to lecture me about the evils of poison gas and how the only way to deal with that is through this Chemical Weapons Convention. We have been the moral leader of the world by imposing trade restrictions on countries like Iran, for example, restrictions that will probably have to be lifted as a result of this treaty because of articles X and XI. So I believe that insisting on renegotiation of articles X and XI would confirm our moral position. Our negotiators tried but failed to win key concessions on those provisions. In the future, they will be strengthened by the knowledge that the Senate will not go along with such halfway measures with a defective treaty.

So, Mr. President, my point here is this. It matters how we make a moral

statement, and simply ballyhooing a treaty that everyone knows is flawed does not enhance our moral stature.

Now to some specific comments. Those of us who have reservations about the treaty have said that it fails in its key objectives, that if it met these objectives we would support it, that our opposition is based on two simple points. It fails to meet the objectives and it does more harm than good.

In what way does it fail to meet its objectives. It was proposed as a global and verifiable and enforceable treaty. Unfortunately, it is none of those. First, it is not global. It does not cover the key countries and the key chemicals that are currently suspected of being the problems. Nine of the 14 countries suspected of possessing chemical weapons have not even signed this treaty. These countries include Libya, Iraq, Syria, North Korea, Egypt, Sudan, Serbia, South Korea, and Taiwan. So many of the countries in the world that possess the chemicals are not signatories. They are not going to bind themselves to it. And there is nothing we can do in terms of verification or inspection or anything else that is going to deal with it. The best way to deal with those countries is to do what we are currently doing, which is to maintain and enforce the restrictions of the Australia Group.

Now, I spoke of that before. What is it? It is a group of 29 countries, including the United States, that have agreed among themselves not to trade these chemicals to countries that they think might want to develop chemical weapons with them. And we have these restrictions in place now. That is the best way to prevent the spread of these chemicals. Unfortunately, as an incentive to get countries to join the chemical weapons treaty, articles X and XI call into question the existence of those conditions and in fact in our view require that the states remove those restrictions and trade with the countries that are parties to the treaty.

Second, the treaty is not verifiable. Now, proponents have said, well, nothing is 100-percent verifiable. That is a false standard, Mr. President. Nobody is claiming that it should be 100-percent verifiable. The question is whether it is effectively verifiable. And on that there is virtually unanimous agreement that, no, it is not effectively verifiable. I read to you a recently unclassified national intelligence estimate conclusion published originally in August of 1993 which stated:

> The capability of the intelligence community to monitor compliance with the CWC is severely limited and likely to remain so for the rest of the decade. The key provision of the monitoring regime, challenge inspections at undeclared sites, can be thwarted by a nation determined to preserve a small secret program using the delays and managed access rules allowed by the convention.

And there are a variety of other statements I could read, including statements of the former Director of the CIA, all of which confirm the fact that this is not a verifiable treaty.

Nor is the treaty enforceable. Even if you were to find a violation and you brought it to the bodies that are supposed to run this treaty, you would have to have a three-quarter vote, and there is no sanction in place. Once they found a violation, they would go to the country and say, would you please stop violating. If the country continued to ignore them, although the likelihood is the country would say, well, sure, we would be happy to, and eventually hide the material in such a way that you could not find a violation in the future, but assuming the violation continued and you continue to prove that, what is the sanction? There is none. Where do you go? The United Nations, the General Assembly.

Mr. President, that is not a place where at least the United States has been treated very kindly in the past. And if you have to go all the way to the Security Council, Russia, China, other states have a veto. So it is unlikely that significant punishment would be meted out. As a matter of fact, the evidence of that probably most clearly is the case of Iraq which admittedly—I should not say admittedly. They denied it, but after inspection it was confirmed that chemical weapons were used against both Iran and against the Kurdish population of Iraq itself and yet the United Nations, the peace-loving nations of the world were incapable of mustering the courage to even name Iraq in a meaningless resolution about the use of these weapons. So it does not seem likely to me that the United Nations would muster the courage to impose any kind of particular sanction.

Now, another one of the selling points of this treaty, according to its proponents, is, well, it is better than nothing. In other words, granted, it does not cover a lot of the countries we wished it covered and it is not very verifiable and there are not any particular sanctions in the treaty, but at least it is better than nothing.

Our response to that is essentially twofold. First of all, it is very costly both in terms of money and potential constitutional restrictions and, second, there are some other very significant reasons why it is not better than nothing.

In terms of cost, we know that the cost to the Government is going to be $150 million to $200 million annually. Businesses are going to have to pay between $200,000 and $500,000 for inspections. Just to fill out the forms, and there are thousands of businesses in this country that will have to fill out the forms, it is going to be a $50,000 to $70,000 proposition, and, of course, untold amounts lost in confidential business information which can result as a result of the industrial espionage that most people believe will result from the inspections under this treaty.

Second, we mentioned the constitutional issues. There has been an attempt to fix about half of the constitutional issues. One deals with the fourth amendment, and there has been an amendment to say a search warrant would be required. The problem with that is that it would probably be found to be in violation of the treaty if a constitutional requirement were imposed to prevent the treaty from operating as it was written.

So if we actually go ahead with a protection from fourth amendment searches and seizures, we may very well be found in violation of the treaty. On the other hand, those responsible for making such a decision may decide that we can have such a constitutional protection in which case I think we can count on all of the other nations that want to avoid detection doing the same thing and, of course, as a nation that lives under the rule of law we will abide by it in a proper way. And I think we can count on countries like Iran or China or Cuba, for example, to use that as an excuse not to allow the kind of inspections that would result in detection.

The other part of the Constitution, the fifth amendment, presents a special problem that nobody has figured out how to fix. The fifth amendment provides that if there is a taking by the Government of property one is entitled to be paid. The problem is that when the U.S. Government imposes this regime on American businesses and individuals, it has not yet made the commitment to pay them. My own guess is that I would have a right to sue and the U.S. Government would have to pay but there is no provision for that. You cannot sue under the Federal Tort Claim Act, and so we would have to somehow construct an ability to sue the U.S. Government and provide for the unlimited liability that would result from such an undertaking. So that has not been dealt with either.

The bottom line is the constitutional issues remain very much up in the air.

Now, those are some of the costs. I think, however, the biggest costs are the following two. The mere fact that this treaty has been proposed has caused many to decide that we do not have to worry as much about defending our troops. I know the President has made a big matter out of saying that this treaty would help to protect our troops. Well, I think he is very wrong and his own administration officials verify this because for the last 2 years his representatives have come to the Congress and based on the fact that the United States signed this treaty and they presumed we would ratify it, this administration has called for reductions in spending on defensive measures for our troops.

How can a President who tries to sell the treaty on the basis that it will be

good for our troops, that it will protect them, come before the Congress not once but twice and call for a reduction in funding to provide defenses for our troops? Two years ago, $850 million. Fortunately, we restored it. What was the reason? The reason expressly was because this treaty is going to enter into force and we will be a part of it, as if the treaty were going to make the threat go away.

And this year General Shalikashvili let us cut another $1.5 billion over 5 years out of this part of the defense budget, this despite the fact that the General Accounting Office in a very critical report following the Persian Gulf war, updated just last year, has found that our defenses are in a very serious state of disrepair; that we are not adequately prepared; that we have not provided our soldiers, our marines, our fighting people who are going to be confronting chemical or biological warfare the kind of training, the kind of equipment, the kind of antidotes, the kind of protection they deserve. So you have GAO in a very current finding that we are not doing enough for our troops, the administration trying to cut the funding to do more, and the President saying that the chemical weapons treaty will solve the problem.

That is what I had reference to when I said that treaties can make you feel good, like you have solved a problem, but when it comes to the lives of American soldiers, we will not have done enough to protect them. And that is why we should not be lulled into a sense of false security by signing a piece of paper that I do not think people would loan money on if they wanted to get it back, frankly. So, this treaty does damage. It is worse than nothing.

What is another example? You have heard me talk about articles X and XI. You are going to hear a lot about that, because articles X and XI turn out not to be such a good idea. I am going to discuss that in more detail later. They were put into the treaty at a time when it seemed like a good idea. Now it does not seem like such a good idea. The administration and everybody else acknowledges we have a problem here. The problem is, everybody is embarrassed to go back and change it. The administration says, "Well, we negotiated the best deal we could." We say, "Because it is flawed, let us go back and take those two sections out." But the administration does not want to do that. Not taking them out is going to result in a proliferation of chemical weapons and technology, not a restriction of it. Again, I will get into that in more detail later.

The point I want to make here is that as long as this treaty has articles X and XI in it, it is going to be worse than nothing because it is going to result in the proliferation of chemicals rather than a restriction. I will just quote one sentence that a letter that former Defense Secretary, Dick Cheney wrote in this regard. He said, "In my judgment, the treaty's article X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the globe." So, in this second significant respect, the treaty makes the situation worse than it was before.

Finally, as I made a point to mention before, it is going to significantly reduce our diplomatic options. Claiming violations will take back seat to more pressing diplomatic considerations. We have seen this in a variety of situations. When the Russians were in violation of the ABM Treaty and had a radar at a place called Krasnoyarsk, we were in delicate negotiations with them in a variety of other things and therefore it was "see no evil," basically. "We are really not all that sure they violated the treaty," when in fact our intelligence community knew full well they had. And after the Soviet Union broke up, its leaders said, "Sure we were in violation." The question is, why didn't we do anything about it? Well, because we did not want to upset the diplomatic applecart.

Think about China with MFN. Are we going to upset the diplomatic applecart? You see, today we do not have to because there is no treaty. Once a treaty is in place we have an obligation. If we know there are violations—perhaps, for example, with China—we would have an obligation to send inspectors over there and ask them to see what they could find. One of two things will happen. Either they are going to confirm there are violations—unlikely, in which case we are then going to have to do something about it. More likely, they will come back and say, "Well, we couldn't prove it."

As a result, China or whoever is doing the violating will have the Good Housekeeping stamp of approval. We set up this regime. You try to find people guilty. But the burden is so difficult you are not going to find people guilty. They are going to, in effect, be acquitted. And when they are acquitted we have then diminished our opportunity to negotiate with them, to tell them to stop selling chemicals, for example, to Iran or other countries we do not want to have them. In that respect, again, the treaty reduces our diplomatic options. It puts us into a box. It makes it more difficult to deal with these kinds of violations and in that respect again it is not better than nothing, it is worse than doing nothing.

What are some of the administration's claims? First of all, they have made the astonishing claim that failure to ratify the treaty would mean that we are aligned with the pariah states of Iraq and Libya because Iraq and Libya are not going to sign or ratify this treaty. I hope the Secretary of State and the President of the United States could discriminate a little better than that. I could make the same argument to them. If we sign the treaty, we are going to be in with a bunch of other pariah states. Do they think it is any better to be with Iran or Cuba? These are states that have signed the treaty and presumably will ratify it. Obviously, that is not an argument that gets you anywhere. But it is the kind of simplistic, superficial argument that this administration is using to sell the treaty. It is an affront to the intelligence of the Senate. As I said, I hope the President and Secretary of State can make better distinctions than that.

I also note it is a bit meaningless at this point to join the treaty, though 67 other nations have joined it, because they do not have chemical weapons. The countries that have chemical weapons have not joined it, and many of them are not going to. About 99 percent of the world's chemical weapons, according to open source material, are held by three countries, none of whom have joined the treaty: The United States, Russia, and China. We have a bilateral destruction agreement with Russia, in which we are trying to get them to destroy their chemical weapons—and they decided they are not going to follow through with that, apparently. So, what makes us think that we are going to do any good by joining the treaty, when about 80 percent-plus of the chemicals in China and Russia would be outside the purview of the treaty?

The next comment made is, "No treaty is 100 percent verifiable." I think I dealt with that before. Nobody is claiming it needs to be 100-percent verifiable, but when we say this treaty is not adequately verifiable or effectively verifiable, their comeback is, "Well, no treaty is 100 percent." That is not the issue. The issue is whether it is effectively verifiable, and unfortunately no one claims that this treaty is effectively verifiable.

No one, for example, has said that they have high confidence that this treaty will timely detect significant violations. As a matter of fact, one of the strong supporters of the treaty, a friend and someone who has served this country well, and we have a difference of opinion about the treaty, Ron Adelman, said in an op-ed piece he wrote on February 20, "Granted, the treaty is virtually unverifiable and granted it doesn't seem right for the Senate to ratify an unverifiable treaty. . ." he went on to say: "however, I think we are still better off by going ahead."

My point is that even treaty proponents acknowledge it is not verifiable, so let us not get into a debate as to whether it has to be 100-percent verifiable or not. It is not effectively verifiable. That is the point.

I discussed a bit ago the argument that the CWC will protect American troops and prevent a terrorist attack. No one who has spoken to this from an intelligence point of view can credibly make the claim that this treaty will, in any way, shape or form, reduce the threat of terrorism. Let me repeat that. Our intelligence community is unwilling to say that this treaty would stop terrorist attacks. And even one of the much vaunted agreements that was entered into between our friends on the other side of the aisle and Senator HELMS recognizes the fact that the CWC is not effective to deal with the problem of terrorism. Let me quote one of the recently unclassified assessments of our intelligence agency, the Central Intelligence Agency:

In the case of Aum Shinrikyo [this is the cult in Japan that gassed Japanese citizens] the Chemical Weapons Convention would not have hindered the cult from procuring the needed chemical compounds needed in the production of sarin. Further, the Aum would have escaped the requirement for an end-use certification because it purchased the chemicals within Japan.

The point is, here, that chemicals are so easily secreted, chemical weapons are so easily made in small, confined spaces, that it is essentially impossible to find all of them. And a terrorist group, in a room the size of a large closet, in Japan, was able to make the sarin gas that they used. This Chemical Weapons Convention has no capability to deal with that. I will say it this way: It is a fraud on the American people to suggest that we have to adopt this treaty in order to do away with terrorist use of chemical weapons. It will not be effective for that purpose. It may have some other beneficial effects, but no one should contend that it is going to help with regard to terrorism.

The same thing, as I said, is true with regard to the defense of our troops. If this administration were actually pursuing a strong defensive capability for our troops, that would be one thing, but it is not. As a result, I think it is not an appropriate argument for this administration to base the ratification of the treaty on.

Another argument of the administration is that this is important to protect the jobs in the chemical industry and that there would be some losses to our chemical companies if the treaty were not adopted by the United States. First, I would say that this is no reason for the United States to enter into a treaty, simply to enhance the financial balance sheets of American companies. We are all for doing that, we are all for helping American businesses do well, but one does not enter into a treaty for that purpose. I think there should be a question about whether our chemical companies ought to be selling these kinds of chemicals to countries like Iran and Cuba and China in any event, because that is the new market that will open up. These are countries that have signed the treaty, not yet ratified. Presumably they will ratify it at some point so there will be an added market for us to sell our chemicals.

The other added market is that if the Australia Group restrictions come off, then our companies would not be restricted by the Australia Group limitations. In both cases they would be able to sell more chemicals. I would argue that that is not necessarily a good thing, even though it might enhance their balance sheets.

And to the argument that somehow there will be a downside to them, that they will actually lose money, it is an argument that does not persuade me. Because folks should know that the only limitation that can be imposed on companies in countries that do not sign the treaty is with respect to so-called schedule 1 and schedule 2 chemicals. These are the chemicals of chemical warfare, of chemical weapons and their precursors, by definition, made in noncommercial quantities. So the only limitation that could ever be imposed upon American companies, if it ever were, would be on such a small amount of chemicals that, even by their own definition it would constitute only a fraction of 1 percent of the chemicals that are traded. We should pass the treaty for that? I do not think so.

Another argument is that at least we will get more intelligence if we are a party to the treaty. This is the argument that says granted it may not solve all the problems but it is better to be inside than outside. I think this particular argument deserves a little bit of attention.

I serve on the Senate Intelligence Committee. I know how this works. I think I should explain a little bit about it. The claim is not true. Our intelligence agencies, of course, always are looking for new opportunities to get information, but it is not correct to say that the chemical weapons treaty provides us that mechanism. The chemical weapons treaty says that if you want to inspect another country for a suspected violation, you bring the matter to the council in charge of the treaty, and if it decides to go forward, it will appoint three inspectors—but it cannot be somebody from your country. So, it would be somebody from three other countries that go do the inspection. They come back and they deposit their findings with this body, this executive council. And by the treaty terms they cannot share that information with anybody else. It is secret. So the United States, not being a party to the inspection, does not have the information, and cannot have it, under the terms of the treaty. So there is only one way that we would gain more information under the terms of the treaty and that is by cheating, by violating the treaty, by somehow trying to steal the information, by somehow trying to turn one of those inspectors to be an agent for us in violation of the treaty terms. That is how we would get more information—not legally, under the treaty.

What would we do if we found somebody cheating? Let us assume that we find that Russia or China has chemical weapons, is not destroying them—in other words, does possess in violation of this treaty. Would we insist on sanctions? How about today? Take the case of China. Would we insist on sanctions? We shake in our boots when the President of Taiwan comes over, attends his 25th class reunion at Cornell, and the Chinese Government threatens to lob missiles into Los Angeles and steams in the Straits of Taiwan and sends missiles over Taiwan. Are we going to impose sanctions on China because of a finding that they have maintained a chemical weapons stock? Are we going to have to prove to this international body, this executive council, that they are in violation? And at what cost to our relations?

The problem is, with the treaty you can no longer ignore violations. You either object or it ends up in a whitewash. Either way it creates significant problems.

There is a final argument that has been made recently and it mystifies me because it doesn't go anywhere but they have been making it, so I will try to respond. Proponents say we are getting rid of our weapons, and therefore the chemical weapon convention will force others to do so, too. It is absolutely true the United States is getting rid of our weapons. We are committed to doing that. We do not need the Chemical Weapons Convention to prove to the world that we are the moral leader of the world. We have said we are getting rid of ours. Nobody else has, but we have.

So you don't need the Chemical Weapons Convention. I challenge my friends who propose the treaty, in what way will the chemical weapons treaty make the other countries get rid of theirs? That is the purpose, that is the goal, but there is no effective mechanism to make it happen, and there is no intelligence estimate or assessment to that effect, Mr. President.

We are going to have an opportunity tomorrow to go into classified session and hear just what our intelligence community has to say about the chemical weapons programs of other nations and about what we think they are going to be doing in the future, and I urge my colleagues to attend that session.

(Ms. COLLINS assumed the chair.)

Mr. KYL. Finally, Madam President, there has been much made of the fact that in the negotiations over this treaty, numerous improvements were made and, therefore, we should remove our objections and go along with the treaty.

First of all, I want to set the stage. Last fall when the treaty came before

the Senate, the statement was that we couldn't touch it, that we couldn't negotiate anything, we had to use the resolution that came out of the committee and there were no changes that were possible; "You can't change the treaty; we're not interested in negotiating any terms."

It turned out there was not sufficient support for the treaty and, therefore, the administration had it pulled. Interestingly enough, last night I saw a news program, the Jim Lehrer News Hour, in which it was misstated that Senator Dole, the previous majority leader, asked the treaty to be withdrawn. He did not ask the treaty to be withdrawn. He was not even in the Senate at the time. He wrote a letter in opposition to the treaty, but he did not ask it be withdrawn. He just said he wouldn't vote for it if it were still in the Senate. It was withdrawn by the administration, by the Clinton administration, not by anyone here in the Senate.

Notwithstanding the fact that the administration took the position that nothing could change, once the treaty was found not to have adequate support, the administration began to change its tune, and little by little, they began to sit down and talk to those who had objections. Over many months, various concessions were made which marginally improved the situation. Now, they are not concessions with respect to the treaty itself because it can't be changed, but there are some things which at least help to clarify how the United States is going to proceed, and had it not been for the considerable efforts of the chairman of the Foreign Relations Committee, these changes would not have been made. So while they were critical of the chairman for his opposition to the treaty, it turns out that now they are bragging about the changes that he sought to have made, and I think that is a very important point, Madam President. Let me just repeat it. While initially deriding the concerns of the chairman of the committee, they are now bragging about the changes that he forced them to make, claiming that this makes it a better treaty, now we should all support it. It does make it a better treaty, but at the margins, not at the core.

What has been negotiated? First of all, there are nine specific conditions that merely restate existing constitutional protections. Those could not have been taken away in any event, but it was helpful to get the administration to acknowledge that they existed. They were even reluctant to acknowledge some of these constitutional protections. We could do without them, because they are in the Constitution anyway, but at least it was handy to get the administration to acknowledge that they existed.

Second, there are two conditions that merely allow the Congress to enact appropriations or approve reprogramming. As every Senator knows, we have that right. We are the body, along with the House, that enacts appropriations or approves reprogramming. So that was essentially meaningless, though handy to have the administration acknowledge.

There are four conditions that call for reports. Whenever you see a call for a report, Madam President, you know that that means we tried to reach agreement on something, we couldn't, so we said, "By golly, we'll have a study on it, we'll have a report." And that is what this calls for. There are seven conditions that call for Presidential certifications, all of which he can make today. These were not concessions by the administration. They were able to agree to these because these are certifications they can currently make. So one should not brag about those.

Four additional conditions are a restatement of current U.S. policy. Again, we thought these were good to have on paper in connection with the treaty so there would be no mistake about what U.S. policy was. It isn't new, it isn't new policy, it isn't a compromise, it isn't a negotiated settlement; this is just a restatement in the resolution of ratification about existing U.S. policy. One of the conditions doesn't take effect until 1998.

I conclude, then, with the two that have some meaning. One deals with search and seizures under the fourth amendment, and I discussed that briefly a moment ago. The other deals with the subject of riot control agents. We do not know what the courts will do with either of these two.

I spoke to the issue of the fourth amendment. The resolution includes a statement that we will require search warrants, either administrative warrants or criminal warrants in the appropriate case. That may or may not be effective under the treaty. It may be declared in violation of the treaty. If not, other countries are going to be able to do the same thing. While the United States will assiduously adhere to the law and to the Constitution, my guess is if other States are able to do the same thing, we will suddenly find interesting provisions in the Iranian Constitution or Chinese Constitution that are going to constitute loopholes big enough to drive a truck through.

The other matter is important, but in the overall scheme of things, I think perhaps more has been made of it than was generally warranted, and it is still not certain that it is resolved, but at least the allegation is that it is. This has to do with riot control agents, tear gas to most people. This was one of the areas in which the Bush and Reagan administrations had been very clear, and the Clinton administration changed policy, another example of a situation where this is not the same treaty that the Bush and Reagan administrations had in mind. They always thought you could use tear gas in certain situations; for example, to rescue a downed pilot, to deal with a situation where you had civilians surrounding an American hostage, for example. Rather than having to shoot those people, we say it makes sense to use tear gas to disperse the crowd and rescue the American. This administration said, no, we don't interpret the treaty as allowing that. Even people who support the treaty, like Gen. Brent Scowcroft, said, that's crazy, that has to be changed. It took a long time to get the administration to finally agree in concept to a change. I am still not persuaded the language does it, but let's assume in good faith they have really agreed to a change in this policy. What that will mean is that, at least in that limited kind of situation, we will be able to use tear gas. That is a positive development, but in light of the final points that I want to make here, it is not reason to change from supporting a treaty that is not global, not verifiable, not effective, does more harm than good. That change is helpful but not dispositive.

What are the five unresolved issues? The way this treaty comes before the Senate, it is the Helms resolution of ratification. In other words, it is a resolution wrapped around the treaty. It has 28 agreed-upon items, and then, in addition, there are 5 that are not agreed upon. Those are the items that constitute the Helms resolution of ratification. To approve the treaty, we will vote on the resolution of ratification. The proponents of the treaty have the right under the rule here to seriatim move to strike each of these five remaining conditions. If they are all stricken, then we will end up voting for the Helms resolution of ratification sans these five protections. If four of them are stricken, we will have one, and so forth.

What are these five unresolved issues? These are the core of the dispute. This is really what it is all about. And this is what I will spend the rest of my time on.

The first issue says the country that has the most chemical weapons in the world, Russia, is not a party to the treaty. It has not complied with various agreements that we have concerning destruction of its chemical weapons stocks and its biological weapons, incidentally, and it has not agreed to abide by a memorandum of understanding with this country under which it would list its stocks of chemicals. These were key agreements that were part of the basis for the Reagan and Bush administrations' sponsorship of this treaty. Russia had agreed to these things. One is called the bilateral destruction agreement. The other is called the Wyoming memorandum of understanding. The Reagan and Bush

administrations believed that if the Russians complied with these provisions, that the chemical weapons treaty might be a good thing. But they are not complying with them. Again, we will hear some details in the session tomorrow. But the fact of the matter is, we ought to require that Russia at least demonstrates some good faith to proceed down the path toward declaring what they have and getting rid of those things. If there is no indication by the Russians that they intend to do this, then it seems a little odd to be entering into a treaty where 60 percent of the world's chemical weapons are not even being dealt with and we are basically conceding to the Russians that they don't have to agree with these other agreements with us. What we are saying is, to try to apply a little leverage to our friends in Russia, look, we know it is expensive to dismantle this, but that cannot be the only problem you have when you will not even declare all of the chemical weapons you have, when you won't even begin the process of dismantling them, when you have signaled that you are no longer going to be complying with the bilateral destruction agreement, you consider it now inoperative, no longer useful. We want some signs from you that you are serious about dealing with chemical weapons before we enter into the Chemical Weapons Convention.

And there is a final reason for this, Madam President. One of the leaders of Russia has written to one of the top leaders of the United States and made it clear that if Russia is to join the Chemical Weapons Convention, it wants to do so at the same time the United States does. As a result, it would be highly unfortunate if the United States went ahead and ratified this treaty before the Russian Duma did. The Russian Duma is clearly not ready to do so. This first condition, therefore, in the Helms resolution of ratification says, "Hold on, we will ratify the Chemical Weapons Convention, but we will not deposit our instrument of ratification at The Hague until Russia has done the same, thus enabling us to come in at the same time." That is all that condition says.

It would require certification by the President that Russia is making progress, that it intends to comply, it is making progress toward complying. They don't have to demonstrate that they have complied. We think that is a reasonable condition. I guess I will state it the other way around as to this first condition, should we be supporting a treaty that we know is being breached by the country that has the largest number of chemical weapons in the world and is going to continue to be breached by that country, or should we insist on a condition that they are making progress toward complying before we buy into it?

The second condition has to do with other states, the so-called rogue states. I will spend only a moment on this because I know my colleague from Oklahoma, Senator INHOFE, wants to speak at greater length about this. We know that there are a variety of rogue states that have no intention of signing on to this treaty and others that may want to sign on but know they can violate it with impunity. These chemical weapons in these countries' hands constitute a real threat to American troops. We think that if one is going to make the claim that this Chemical Weapons Convention is going to reduce the chemical weapons stocks of these rogue nations that pose a threat to the United States, the least that ought to happen is that they submit themselves to the treaty. Can't do any good if they are not members. We need to certify that some of these nations are going to be states parties before we subject ourselves to it.

The third condition is one that I can't imagine anybody is going to object to, and that is that certain inspectors would be barred from inspecting American sites. We have the right to do this under the treaty. The President has the right to say, I don't want any inspectors from China, I don't want any inspectors from Iran coming in here because we think they are going to—and I use these as hypotheticals—the President says, we think they may be bent on industrial espionage and therefore we are going to ask that they not be inspectors. The argument against that is, well, tit for tat. They will say, fine, we don't want any Americans on the inspection team that comes into our country. We are willing to say, fine. We think for certain countries, like China and Iran, we should put right up front they are not going to be inspectors of United States facilities. And that would be a third condition to ratification.

A fourth condition to—actually No. 5 on the list has to do with the standard for verification. This has to do with the question of whether or not we have an adequate sense that we can actually find cheating under the treaty. And we are not asking for an impossible standard. We are not asking for 100-percent verification.

We are simply asking that the President certify to the Congress before we submit the articles of ratification that the CIA has certified to the President to a level of verification that will work. And what we have basically done is take the definition of previous administrations, the so-called Baker-Nitze definition, along with a specific aspect that General Shalikashvili identified as a way of identifying our standard here for verification under the treaty.

It would be effectively verifiable. We could find violations with a high degree of confidence in a timely fashion, within a year of their occurrence. And they would be militarily significant.

Now, militarily significant was defined in a hearing before the U.S. Congress by General Shalikashvili as 1 ton of chemical weapons. And, therefore, that is what we have built into this definition.

So what we have said, Madam President, is that we would join the treaty at such time as we had the certification from the President that the CIA certified that we could achieve this level of verification. I do not think that is asking too much.

Finally, the final condition has to do with articles X and XI. This is what I had spoken to before.

I would ask my distinguished chairman if I could go on for just a few minutes here.

Mr. HELMS. Go right ahead.

Mr. KYL. I will conclude on articles X and XI because we are going to hear a lot more about them. I think it is important to read into the RECORD the provisions we are talking about and discuss in a little bit of detail specifically what our concerns are.

Here is what article X says. I might preface this comment, Madam President, with the statement that these were inducements put into the treaty originally to induce countries to join the treaty. They were put there based upon inducements that were included in a previous treaty, the nuclear nonproliferation treaty, under the so-called atoms for peace plan.

Many people know or will remember that the atoms for peace plan was the idea that if countries would eschew the development of nuclear weapons, we would provide them peaceful nuclear technology. And countries like Iraq, and other countries that could be mentioned, took advantage of that program, and said, "Fine. We won't develop nuclear weapons. Now send us the peaceful nuclear technology." We eventually learned that what they did with that peaceful technology was to use it in their nuclear weapons program.

So after it was put in the treaty, and we got these people signed up, we learned that several countries were using this provision of the treaty to actually enhance their nuclear weapons capability. It worked to the detriment of the proliferation of nuclear weapons.

Well, before that was ever learned this chemical weapons treaty was negotiated. So at the time it seemed like a good idea to put the same kind of provision in the chemical weapons treaty. At the time it seemed like it would be a smart thing to provide an inducement for countries to join the treaty, saying:

> If you'll join up, then we will not have any restrictions on trade in chemicals with you. You can buy all the chemicals you want. And, in addition to that, you can ask us for, and we will provide to you, all of the defensive gear, chemicals, antidotes, equipment, and so on, that will enable you to defend against chemical weapons.

That is a pretty good incentive for a country to join up. Look at it from the standpoint of a country that has in mind conducting chemical warfare capability. The first thing they want to do is be able to protect their own troops from the use of the weapons. So they want our latest technology in defensive gear, in defensive equipment, in antidotes and the like. So it is a pretty good incentive to sign up for the treaty because they have a right to ask us, and the treaty says we will undertake to provide to them that material. Moreover they want to buy chemicals.

Right now the Australia group I talked about before has limitations on what chemicals can be sold. As a matter of fact, there are 54 specific chemicals under the Australia group that cannot be sold to the countries we believe want to develop the chemical weapons capability. These countries then have an incentive for joining the convention because under the convention you cannot limit the trade in chemicals.

What does the treaty say? Article X:

> Each State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.

It could not be more clear, Madam President. Article X says that the parties to the treaty have the right to participate in and each party undertakes to facilitate. In other words, we have an obligation to facilitate their acquisition of this defensive equipment.

Article XI carries this further and adds another element. And I read in part:

> The . . . States Parties . . . shall . . . undertake to facilitate, and have the right to participate in, the fullest . . . exchange of chemicals, equipment and scientific and technical information relating to the development and application of chemistry for purposes not prohibited under this Convention . . . for peaceful purposes . . .

In other words. The "atoms for peace" equivalent in the Chemical Weapons Convention.

So here is a big incentive for countries who want to develop a defense against chemical weapons to join the Chemical Weapons Convention.

The second part of article XI, section (c) says that:

> [The] States Parties . . . shall . . . [n]ot maintain among themselves any restrictions, including those in any international agreements . . .
>
> shall . . . [n]ot maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this Convention, which would restrict or impede trade and the development and promotion of [again] scientific and technological knowledge in the field of chemistry for industrial, agriculture, research, medical, pharmaceutical or other peaceful purposes.
>
> shall . . . [n]ot maintain among themselves any restrictions, [either unilateral or international restrictions.]

So what this says is that States Parties will have the right to say, once they become parties, "You can't have an embargo on selling chemicals to us. You have to lift your restrictions."

For a country like Iran, for example, which has signed the treaty, this would be a pretty good deal because currently none of the Australia Group countries will sell it these chemicals.

What is going to happen? Well, today, China may be selling chemicals to Iran or maybe another country is selling chemicals to Iran not covered by the treaty. Once the treaty goes into effect, those countries could continue to sell chemicals to Iran. But what is going to happen is that the other countries, countries that sign onto the convention are going to say, "Wait a minute. China, for example, is selling chemicals to Iran. Our chemical companies want in on the action. It says right here in the treaty we're not supposed to maintain any restrictions. So we are out of here. We are going to allow our countries to sell chemicals to a country like Iran." We will have a very poor argument against that.

What has been the administration's response to this? Belatedly the administration seems to find there is a little problem here. But originally it did not think so. As a matter of fact—and I think this is a critical point of this debate, Madam President,—right after the chemical weapons treaty was signed into force, the Australia Group members were all asked to begin the process of lifting their restrictions pursuant to the Chemical Weapons Convention, the plain wording of articles X and XI.

Let me read to you, according to the administration—this is in testimony before the Congress:

> Australia Group members in August 1992 committed to review their export control measures with a view of removing them for CWC States Parties in full compliance with their own obligations under the convention.

In other words, after the CWC was signed, the Australia Group countries began to review their export control measures which currently prohibit them from selling chemicals to certain countries, so that they could bring themselves into compliance with their obligations under articles X and XI of the convention.

And the Australia Group itself issued a formal statement—and I am quoting now—

> Undertaking to review, in light of the implementation of the Convention, the measures that they take to prevent the spread of chemical substances and equipment for purposes contrary to the objectives of the convention with the aim of removing such measures for the benefit of States Parties to the Convention acting in full compliance with the obligations under the Convention.

In other words, again, if you have limitations on the sale of chemicals to countries, you are going to have to lift them or you will be in violation of articles X and XI of the convention.

What has the administration's response to this been?

At first it was denial. Then, one comment made to me was, "Well, we tried our best to negotiate our way out of this, but the best we could do is get language like 'undertake to facilitate' rather than 'obligated to.' We just couldn't negotiate anything better."

So this was a bone to those countries, an incentive for them to come in. And to our argument, this makes the situation worse, not better, and will actually proliferate these weapons, the same as Secretary Cheney just said in the quotation I just read, that articles X and XI will result in the proliferation of chemical weapons because there cannot be any restrictions.

The administration then began to take a different tack. First they said, well, we will decide not to lift our restrictions, so the United States will still not sell to countries that we think might develop chemical weapons. And we will get you a letter to that effect. I have not seen anything in writing, but that is the administration's latest statement.

We said, that does not do any good because it only takes one country to break an embargo. Any one of the countries could do it. And the horse would be out of the barn. So they said, well, we will try to get the other Australia Group states to agree to the same thing.

Bear in mind what they are saying. First, they were all going to lift these restrictions to be in compliance with the treaty. Now we are going to try to convince them they should keep them in place in clear violation to the treaty. This is the way to make a moral statement, Madam President, by violating the treaty right up front and announcing to the world we are violating the treaty, by keeping in place restrictions that are required to be lifted under articles X and XI?

It is not a very propitious way to make a moral statement or to begin the operation of an international treaty to announce in effect not only are you going to violate it but you are going to try to get all your friends in the Australia Group to violate it because not to do so would be to lift the restrictions we currently believe are helpful in preventing the spread of chemical weapons.

Even if all these countries do decide to ignore articles X and XI, countries that are not States Parties can continue to sell these chemicals. I said, it will not be long until everyone else will want in the action. The same argument that has been made by some of our chemical companies, in the event if somebody is selling we should have the right to sell too otherwise we are just losing good business.

So I will conclude, Madam President, by trying to make this rather simple, but I think important point. To those

who say, granted, it is not going to be a very effective treaty, but at least it does no harm, I say, you are wrong. It is going to do a lot of harm—to business, to the taxpayers, to our ability to conduct diplomacy and, importantly, to our ability to constrain the spread of chemical weapons.

As Secretary Cheney said, unless articles X and XI are removed from this treaty, it is going to make matters worse, not better.

So the fourth condition that is a part of the Helms resolution of ratification says that we will ratify the treaty, but before we deposit the articles of ratification there has to be a certification by the President that those two sections have been removed from the treaty. Yes, of course, that will require a renegotiation. The States Parties will have to agree to take those provisions out. That should not be a problem if the administration's most current assurances are to be believed.

I suspect, however, there are specific States Parties who do not agree with those assurances who fully intend to continue these sales. As a matter of fact, if you will read the language of the Chinese ratification, it explicitly preserves their understanding of articles X and XI which is the obvious understanding of anyone reading them, that it would be improper to have trade restrictions or to deny the defensive equipment in the case of other States Parties.

So, Madam President, we are stuck with articles X and XI. And it is the belief of many of us that perhaps we could support this treaty if those articles were removed. But until they are removed, it makes matters worse and therefore we cannot in good conscience support the treaty in that form.

I thank the distinguished chairman of the committee for yielding me this time.

Mr. HELMS addressed the Chair.

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

Mr. HELMS. Madam President, allow me to thank the able Senator from Arizona. He is a walking encyclopedia on the details of this treaty, and he has been enormously helpful to me and to many other Senators in understanding the implications of a great many provisions of the treaty. I thank him now publicly for all he has done to be helpful. I am deeply grateful.

Mr. KYL. Madam President, I return that thanks. I see the distinguished ranking member of the committee. I compliment both of them for their work to achieve what I have described as "limited success" in the provisions agreed to, but nonetheless important. I appreciate the negotiations that they conducted and the spirit in which this debate has been conducted as well.

Mr. HELMS. Madam President, I ask unanimous consent that the RECORD reflect that had there been a recorded vote on the previous two voice votes, that Senators ASHCROFT and GRAMS would have voted "aye" on both votes.

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

Mr. HELMS. Madam President, I hope the distinguished ranking member will agree that the other Senator from Arizona should follow. I will leave it for him to limit his time or not. Let me do one or two other things and I will let the Senator take care of that. I noticed that two or three times in the past week—and I am used to the media criticism; as a matter of fact, I enjoy it. I have a lot of cartoons on my office wall to prove that I do enjoy it. But I noticed that two or three people said, "Helms doesn't do anything in the Foreign Relations Committee except hold up treaties."

Well, let's look at the record. In the past 2 years—that is to say the 104th Congress—the Foreign Relations Committee has considered 39 treaties, and the Senate approved 38 of them—the one exception being this chemical weapons treaty, which the administration pulled down just before it was to become the pending business in the Senate.

I will read the list that I am going to put into the RECORD: Consideration of the CWC, in the context of the work of the committee in carrying out its responsibility to us and consent to ratification as set forth in article II, section 2, of the Constitution. Treaties considered during the 104th Congress included bilateral tax and investment treaties, important to protecting and furthering U.S. business interests abroad; 14 treaties strengthening U.S. law enforcement through extradition of criminals and access to criminal evidence in other countries. One notable example of the impact of these treaties was the ratification of the United States extradition treaty with Jordan, which enabled the United States to take into custody a suspect in the World Trade Center bombing. Extensive hearings were held by the committee to consider the START II Treaty and the Convention on Chemical Weapons. The Foreign Relations Committee also considered, and the Senate ratified, three multilateral treaties dealing with landmines and the rubber industry and international fisheries laws.

I ask unanimous consent that this list be printed in the RECORD.

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

TREATIES RATIFIED BY THE SENATE DURING THE 104TH CONGRESS

ARMS CONTROL TREATIES

Convention on Conventional Weapons.
Start II.
[Convention on Chemical Weapons (approved by Committee/no vote by Senate)].

COMMODITIES

1995 International Natural Rubber Agreement.

FISHERIES

U.N. Convention Relating to the Conservation and Management of Highly Migratory Fish Stocks.

BILATERAL EXTRADITION TREATIES

Belgium.
Supplementary with Belgium.
Bolivia.
Hungary.
Jordan.
Malaysia.
The Philippines.
Switzerland.

BILATERAL INVESTMENT TREATIES

Albania.
Belarus.
Estonia.
Georgia.
Jamaica.
Latvia.
Mongolia.
Trinidad Tobago.
Ukraine.

BILATERAL MUTUAL LEGAL ASSISTANCE TREATIES

Austria.
Hungary.
Korea.
Panama.
The Philippines.
United Kingdom.

BILATERAL TAX TREATIES

Canada.
France.
Indonesia.
Kazakstan.
Kazakstan Exchange of Notes.
Mexico.
Netherlands-Antilles.
Portugal.
Sweden.
Ukraine.
Ukraine Exchange of Notes.

Mr. HELMS. In addition to my recommendation to the distinguished ranking member, I hope Senator MCCAIN, although he does not share my view on the treaty, will be recognized, because he is a patriot of the first order, as far as I am concerned. If anybody ever paid his dues to this country, the Senator from Arizona did. Following him, I should like for Senator HUTCHINSON to represent our side in the pecking order. How much time will the Senator need?

Mr. HUTCHINSON. Ten minutes.

Mr. HELMS. The Senator can use a little longer if he wishes. Let me ask about the time consumed thus far, Madam President.

The PRESIDING OFFICER. The Senator from North Carolina has 3 hours 10 minutes remaining. The Senator from Delaware has 3 hours 21 minutes remaining.

Mr. HELMS. Three hours even for me?

The PRESIDING OFFICER. And 10 minutes. And 3 hours 21 minutes for the Senator from Delaware.

Mr. HELMS. We are running pretty near. The distinguished Senator from Delaware made his usual eloquent speech this morning. How long did I speak, by the way?

The PRESIDING OFFICER. The Senator spoke for 4 minutes, plus 26 minutes earlier today.

Mr. HELMS. Four months? No, I understand. With the understanding that the Senator from Arkansas will follow the distinguished Senator from Arizona, I yield the floor to my distinguished friend from Delaware.

Mr. BIDEN. That "four month" comment reminds me of a joke about the two guys who were cheering at the bar, clapping their hands. A guy walks into the bar and says, "What are they so happy about?" Another guy says, "Oh, they just put together a jigsaw puzzle, and they did it in 3 hours." The guy walks up to them and says, "Congratulations, but why is that so special?" They showed him the box, which said "2 to 4 years." At any rate, it will take a while for that to sink in. A little bit of levity in the chemical weapons treaty is worth the effort.

The junior Senator from Arizona complimented me on the limited success that we have achieved here. I thank him for that. Now I am going to yield to a man of unlimited capacity to prove to everyone that there is no limit to the success we are about to achieve in this treaty.

I yield 15 minutes to the distinguished Senator from Arizona, my good friend, JOHN MCCAIN.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I thank my distinguished colleague from Delaware and the Senator from North Carolina. The distinguished Senator from North Carolina deserves great credit, in my view, because he, as chairman of the Foreign Relations Committee, allowed this treaty to come to the floor. The distinguished chairman could have bottled up this treaty under his authority as chairman of the committee. He deserves great praise.

I also point out that, as various groups have gotten into this debate, there have been a lot of allegations, a lot of impugning of character and patriotism and views about whether people are tough enough or not tough enough or what is too soft. This is a debate amongst honorable people who have honorable differences of opinion, as I do with the junior Senator from Arizona, my dear friend and colleague, Senator KYL. I would like to see, especially in the columns of various periodicals interested in this view, the debate elevated a bit as to the virtues or vices, as the observers of this treaty might view them, as opposed to speculations about the motives of those who either support or oppose this treaty. I think the American people would be far better off.

Madam President, the importance of this issue has been pointed out. We will have political and economic consequences for the United States for many years to come. The most important question is whether this agreement is good for U.S. national security.

In my view, one central fact dominates consideration of this issue. Regardless of whether the United States ratifies this treaty, the United States will, in the next decade or so, complete the destruction of its own aging chemical weapons stockpile. Our reasons for doing so have nothing to do with arms control. The decision was made before the CWC became a near-term possibility. I am not aware of any interest of Congress or the U.S. military in getting the United States back in the chemical weapons business. So when we consider the wisdom of ratifying this treaty, we should bear in mind that this is, first and foremost, a treaty about limiting other countries' chemical weapons, not our own, because we are doing away with ours. In practical terms, the alternative to ratification of the CWC is U.S. unilateral disarmament in the field of chemical weapons.

The critics point out that a number of countries, such as Iraq, Libya, Syria, and North Korea, will not ratify the CWC and will therefore not be bound by its limits. True. But will our efforts to keep weapons of mass destruction out of their hands be enhanced if we don't ratify this treaty? No, they will not. In fact, I am confident that these rogue states are desperately hoping the Senate will reject ratification because, if we do, we will not only spare them the mandatory trade sanctions that the CWC imposes on nonparties, we will also undermine a near global consensus that all chemical weapons, including those of nonparties, should be banned.

Madam President, for 10 years I have had the privilege of working with the former Senate majority leader, Bob Dole. Probably the closest working relationship I had with him was on issues of national security. In fact, I was privileged to serve as one of his advisers in the last campaign in his efforts for the Presidency of the United States. Madam President, I know of no one more credible on these issues, and I know of no one, going back to World War II, who understands service and sacrifice and our national security interests more than Senator Bob Dole, a man whose friendship I cherish and whose companionship I enjoy but, more important than that, a person whose views I hold in the highest esteem and regard. There are many other experts on national security issues in this town, but I know of no one who has had the experience and hands-on involvement with these issues, that is, the tough decisions, than Senator Dole. We all know that Senator Dole issued a letter today that I think is of great importance.

Madam President, I ask unanimous consent that Senator Dole's statement and the letter from President Clinton to Senator Dole be printed in the RECORD.

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

STATEMENT OF BOB DOLE ON THE CHEMICAL WEAPONS CONVENTION

WASHINGTON.—Bob Dole today issued the following statement regarding the Chemical Weapons Convention:

"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 would 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.

"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. (See attached letter from President Clinton to me dated April 22, 1997). 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."

THE WHITE HOUSE,
Washington, April 22, 1997.

Hon. BOB DOLE,
Washington, DC.

DEAR BOB: I welcomed the opportunity to discuss the Chemical Weapons Convention (CWC) with you Saturday and appreciated your taking the time Monday to have Bob Bell brief you on the 28 agreed conditions to the Resolution of Ratification.

When you wrote Senator Lott last September, you expressed the hope that I would assist him in amending the Resolution of Ratification in a manner that would address certain concerns you raised and thereby "achieve a treaty which truly enhances American security." I believe the 28 agreed conditions, which are the product of over 60 hours of negotiation between the Administration and the Senate over the last two and

a half months, meet both these tests. We have truly gone the extra mile in reaching out, as you recommended, to broaden the base of bipartisan support for this treaty. As I said in my public remarks Friday, "I consider that the things that we've agreed to in good faith are really a tribute to the work that Senator Lott and Senator Helms and Senator Biden and a number of others did to really clarify what this Convention will mean; I think it's a positive thing."

Let me mention briefly how my Administration has addressed the specific concerns you raised last fall:

Constitutionality. You said Constitutional protections should be safeguarded against unwarranted searches. We have agreed to a condition (#29) guaranteeing that there will be no involuntary inspection of a U.S. company or facility without a search warrant. Period. We have also agreed to a condition (#12) underscoring that nothing in the treaty "authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States."

Real Reductions. You asked whether the CWC will actually eliminate chemical weapons. We have agreed to a condition (#13) specifying severe measures that the United States will insist upon if a country is in noncompliance of this fundamental obligation under the treaty.

Verification. You asked whether we will have high confidence that our intelligence community (IC) will detect violations. We have agreed to a condition (#10) which would require the Administration to identify on a yearly basis priorities, specific steps and resources being undertaken to strengthen U.S. monitoring and detection capabilities. These annual reports would also include a determination of the IC's level of confidence with respect to each monitoring task. We also made clear during the negotiations on the conditions our willingness to certify that the CWC is "effectively verifiable" and that the IC has high confidence it could detect the kind of violation that matters most in terms of protecting our troops deployed in the field: any effort by an adversary to try to train and equip his army for offensive chemical warfare operations. I regret that the unanimous consent (U/C) agreement governing the floor debate on the CWC will not allow this condition to be offered.

Universality. Finally, you asked whether the treaty will be truly global. We have agreed to a condition (#11) which requires the Secretary of Defense to ensure that U.S. forces are effectively equipped, trained and organized to fight and win against any rogue state that remains outside the treaty and employs CW in battle. To restrict CW options for such states, we agreed to a condition (#7) requiring the President to certify that we will strengthen our national export controls and that all 30 states participating in the Australia Group are committed to maintaining this export control regime on dangerous chemicals. This certification will have to be made annually. Lastly, during the negotiations on the conditions we underscored our willingness to commit to a mechanism by which we would have to consult each year with the Senate on whether to remain in the CWC if rogue states do not over time succumb to pressure to join the treaty regime. As with the proposed verification condition, I regret the Senate will not have an opportunity to vote on this condition either.

In closing, let me again thank you for your interest in and support for achieving a treaty that enhances the security of our Armed Forces and all our citizens.

Sincerely,

BILL CLINTON.

Mr. McCAIN. Madam President, I will not read Senator Dole's whole statement, but I think it is important what he said. I will read parts of it:

I commend Senator Lott, Senator Helms, Senator Lugar, and many other former colleagues, as well as President Clinton and the administration officials for their constructive efforts. Is it perfect—no—but I believe there are now adequate safeguards to protect American interests.

I repeat.

* * * 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.

He goes on to say:

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.

Madam President, it is well known that, last fall, one of the reasons the treaty was withdrawn by the administration was because of the reservations expressed by Senator Dole at that time—then candidate Dole. It is well known that Senator Dole's reservations were legitimate and sincere. There is also now no doubt—at least in my mind, as well as in Senator Dole's—that those reservations and concerns have been satisfied by the 28 conditions that are included in this treaty, with only 5 remaining, which we will be voting on tomorrow.

Obviously, every U.S. Senator thinks for himself or herself; there is no doubt about that. But, in my mind, this is an important event that Senator Dole should weigh in on this issue—not because there is any benefit to Senator Dole; clearly, there is a downside for his involvement, and he could have kept silent. But, once again, Senator Dole has chosen to speak out for what he believes is important to U.S. vital national security interests. I applaud him and, again, hope that he will continue his involvement in the challenges that we face in the years ahead to our Nation's security, as he has so successfully done in the past.

The CWC critics also contend that the treaty will weaken our nonproliferation policy because article XI of the treaty says the parties will have the right to participate in "the fullest possible exchange" of chemical technology for purposes not prohibited under the convention. As a result, we will have to eliminate our national controls on chemical technologies and disband the Australia Group, the multilateral framework for restraining transfers of sensitive chemical technology.

This interpretation of the treaty is contradicted not only by the text of the treaty—which subordinates article XI to the basic undertakings in article I for parties not to acquire chemical weapons or to assist another state in doing so—but also by our experience with other nonproliferation treaties and the agreed "consensus" conditions included in the resolution of ratification before us.

First of all, article XI is essentially similar to the language of article IV of the Nuclear Non-Proliferation Treaty in that it blesses technology exchanges among treaty parties, but the NPT has not caused us to disband the Nuclear Suppliers Group, which was, in fact, founded after the NPT went into force.

Nor has it obliged us to curtail our national controls on the transfer of nuclear technology, even to other NPT parties; the United States enacted the Nuclear Nonproliferation Act of 1978 10 years after the NPT was signed. There will always be some countries that object to our technology controls, but these are decisions the United States makes for itself. And successive administrations, Republican and Democratic, have maintained and expanded our export controls on nuclear technology, while the NPT has contributed to our ability to obtain support from our allies in this effort by establishing an international consensus that nuclear proliferation is an evil that must be countered.

Moreover, beyond the text of the CWC itself, we have before us 28 agreed conditions in the resolution of ratification. As a member of the group that the majority leader put together to address issues regarding CWC ratification, I am proud of the work done at the member and staff level to achieve agreement with the administration on a number of difficult issues. I am also grateful for the work done by the chairman of the Foreign Relations Committee and the ranking minority member, who together resolved many additional problems. This work has greatly strengthened the resolution of ratification on which we will soon vote.

Agreed condition 7 of the resolution requires the President to certify not only that the United States believes that the CWC does not require us to weaken our export controls, but also that all members of the Australia Group have communicated, at the highest diplomatic levels, their agreement that multilateral and national export controls on sensitive chemical technology are compatible with the treaty and will be maintained under the CWC.

Conversely, if the United States rejects ratification, I doubt that we will be able to play our traditional leadership role in attempting to persuade other chemical suppliers to exercise restraint. The world will blame the

United States for undermining a chemical weapons ban that the vast majority of other countries were willing to sign. If we reject ratification, where will we get the moral and political authority to persuade other Australia Group participants to block exports to countries of concern?

The same case can be made regarding article X of the treaty, which critics claim will require us to share defensive technologies with potential enemy states. Not only does this provision apply only to CWC parties, so countries outside the treaty like Libya cannot benefit, but condition 15 in the resolution of ratification obliges the United States to share only medical antidotes and treatment to countries of concern if they are attacked with chemical weapons. And our respected former colleague, Secretary of Defense Cohen, has committed the United States to use every instrument of U.S. diplomacy and leverage to block transfers of chemical technology that would undermine our security, and he has made the obvious point that we will be better able to do this if we are inside the CWC regime rather than outside.

It is true that the Chemical Weapons Convention will be more difficult to verify than nuclear arms control agreements such as START and INF. But regardless of whether the United States ratifies the CWC, we will have to monitor closely the chemical weapons programs of other states. The intelligence community has repeatedly told the Senate that the CWC's verification measures will be a useful tool in doing this job. General Shalikashvili has told the Armed Services Committee that "I believe that the system of declarations, of routine inspections, challenge inspections, all put together, give us a leg up to the ability to detect whether (potential violators) are, in fact, embarked upon a program that would be in violation of the CWC. So I think our chances are improved when they are members of the CWC. Our chances decrease dramatically if they are not members of the CWC."

While some want to reject the CWC because of verification concerns, it seems to me that this would have the practical effect of reducing the United States' ability to monitor the chemical weapons programs of other countries. This is an example of the best being the enemy of the good.

Discussions among Senators and between the Senate and the administration have produced other agreed conditions to the resolution that have strengthened the case for ratification.

Madam President, I also want to commend the work of the majority leader, Senator LOTT, who has worked long and hard to address the legitimate concerns many Republicans Senators had expressed about the Convention and to accommodate the administration's correct assertion that the Senate has a duty to vote, yea or nay, on the treaty. Senator LOTT and his indefatigable foreign policy advisor, Randy Scheunemann, labored tirelessly to facilitate negotiations between members and between the Senate and the administration. They ensured that these negotiations bore fruit and resulted in a resolution of ratification that resolved most, if not all, of the reservations expressed by some Senators. Both the Senate and the administration are in their debt.

It is also appropriate, Madam President, to commend administration officials for working with the Senate in a genuinely nonpartisan way that was notable for the respect paid to the views of all Members, and the good faith shown in trying to come to terms with so many difficult issues. I have on many past occasions been critical of administration policies and the lack of bipartisanship in promoting those policies. In this instance, administration officials took great pains to secure the Senate's advice and consent in a manner that was, as I said, genuinely respectful of every Senator's views. Thus, I am happy to give praise where praise is due.

Madam President, I respect the concerns of those Senators who cannot vote in favor of ratifying the CWC. But in my opinion, we do not need killer amendments to ensure that this treaty—negotiated under President Reagan and signed by President Bush—is on balance a good deal for the United States. This view is shared by former Presidents Ford and Bush, numerous Nobel Prize winners in chemistry, the chemical industry trade associations, gulf war victors Colin Powell and Norman Schwarzkopf, retired CNO Adm. Elmo Zumwalt, plus the Veterans of Foreign Wars, the Vietnam Veterans of America, and the Reserve Officers Association. I am comfortable in their company, and that of every U.S. ally in Europe and Asia. That is why I intend to vote to ratify this treaty, and I urge my colleagues to do the same.

Madam President, I yield back my time to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 10 minutes.

Mr. HUTCHINSON. Madam President, I rise today to voice my serious reservations about the Chemical Weapons Convention treaty. The most important standards for an effective treaty are: Verifiability, protection to the signatories, constitutionality, and the applicability to nations of most concern. I sincerely believe that the CWC falls short in each of these basic requirements.

On April 8, 1997 three former Secretaries of Defense appeared before the Senate Foreign Relations Committee urging Senators to vote against the ratification of the Chemical Weapons Convention. This fact alone should give this body great pause in the consideration of this treaty.

I know that there are good, there are loyal, and there are patriotic Americans on both sides of this issue of ratifying the Chemical Weapons Convention. I have many constituents who have called me, and said, "Senator, how do we know? We hear former Secretaries of Defense saying it is a bad treaty. We hear Colin Powell saying it is a good treaty. Today we hear former Senator Dole saying we need to ratify this. How do we know?"

I believe that it is simply our responsibility as Senators, respecting the differences that exist, to study this, to evaluate it, and to make a reasoned judgment. I believe also when our national security is at risk that we must always opt on the side of caution in consideration of a treaty such as we have before us.

Madam President, the opinions of Secretaries Schlesinger, Rumsfeld, Weinberger, and Cheney regarding this treaty should not be taken lightly. On April 7, in a letter to Senator JESSE HELMS, chairman of the Senate Foreign Relations Committee, former Secretary of Defense Cheney wrote, and I am quoting, Mr. President:

> The technology to manufacture chemical weapons is simply too ubiquitous, covert chemical warfare programs too easily concealed, and the international community's record of responding effectively to violations of arms control treaties too unsatisfactory to permit confidence that such a regime would actually reduce the chemical threat. Indeed, some aspects of the present convention, notably its obligation to share with potential adversaries like Iran, chemical manufacturing technology that can be used for military purposes and chemical defensive equipment, threaten to make this accord worse than having no treaty at all.

Those words of Dick Cheney have echoed in my mind—"worse than having no treaty at all".

He said, if I might summarize, that the manufacture of chemical weapons is too widespread, concealing it is too easy, and enforcement is too uncertain for us to ratify this treaty.

Madam President, I ask unanimous consent that this statement from Dick Cheney be printed in the RECORD.

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

The technology to manufacture chemical weapons is simply too ubiquitous, covert chemical warfare programs too easily concealed, and the international community's record of responding effectively to violations of arms control treaties too unsatisfactory to permit confidence that such a regime would actually reduce the chemical threat. Indeed, some aspects of the present convention, notably its obligation to share with potential adversaries like Iran, chemical manufacturing technology that can be used for military purposes and chemical defensive equipment, threaten to make this accord worse than having no treaty at all.—Richard Cheney, Letter to Chairman Helms, April 7, 1997.

Mr. HUTCHINSON. Madam President, Secretary Cheney's statement sends a clear message to the American people that this treaty does not effectively deal with the threat of chemical and biological weapons. As we begin this debate on the CWC, the American people, with justification, will ask their leaders how and where they stand on the issue of chemical weapons.

I stand here today wanting to tell the American people that this Congress will do everything in its power to rid our world of chemical and biological weapons, however, the CWC is not global, is not verifiable, is not constitutional, and quite frankly, it will not work.

While the intent of the CWC is to create a global chemical weapons ban, accomplishing that goal does seem unlikely. Six countries with chemical weapons programs—including all of those with aggressive programs—have not yet signed the CWC.

So how then can we call this a global treaty?

Neither Iraq, Libya, Syria, nor North Korea have signed or ratified the CWC. China, Pakistan, and Iran have signed the CWC, but have not ratified it. Russia has signed the CWC, but has not ratified it.

These rogue nations of Iran, Libya, North Korea, and Syria represent a clear threat to United States security and the security of key United States allies. All of these countries have active, aggressive programs to develop and produce chemical weapons.

Let's be clear about one important thing. The administration has refused to ban inspectors from rogue nations such as Iran and China.

That will be one of the reservations that we will have the opportunity to vote on. And it is one of those reservations that I find it incomprehensible that the administration has found unacceptable—banning inspectors from rogue nations such as Iran and China.

In addition, there are intelligence reports that have recently indicated that Russia has already begun to cheat, even before the CWC has gone into effect. These facts alone give substance to opposing the treaty.

Madam President, inherent in the CWC is a requirement that we share our advanced chemical defensive gear with countries like Iran and China. It is important to recognize that rogue nations, through reverse engineering, can easily figure out how to infiltrate our technologies. This would not only increase the chances of a chemical attack, but more importantly this would endanger our troops around the world.

Let us be crystal clear on the fact that once there is a free-for-all of U.S. chemical and defensive technologies between the proposed signatories of this treaty, it will quite frankly be impossible to stop the transfer of this information to the rogue nations, that do not sign the CWC.

I believe that the CWC will not increase pressure on rogue regimes. The CWC will not result in an international norm against the use of chemical weapons. The Geneva Convention of 1925 already established that norm. How many times has this prohibition been violated by Iraq, on the Kurds and even in the case of our own troops?

Madam President, it took 5 years before the Pentagon came forward with information pertaining to the exposure of our own troops to certain chemical and biological substances that could affect the health and well-being of our 700,000 U.S. service people in the gulf.

The rogues have demonstrated that they will plan for the use of, threaten the use of, and indeed use chemical weapons despite international norms.

We must, to the best of our ability, avoid the horrible events of the 1980's, when the international community witnessed the horrors of Iraq's use of chemical weapons against its own people. Since that time, sanctions against Iraq have been strong and effective. The CWC will not address any shortcomings in these sanctions.

Madam President, how can the CWC be global if these so-called rogue nations have not signed the CWC? The bottom line seems to be that the CWC is most applicable to the countries of least concern to the United States. It may help us with Great Britain, but provide no protection regarding North Korea or Iraq.

It is my understanding, that under article XII of the treaty, members caught violating treaty provisions are simply threatened with a restriction or suspension of convention privileges. At worst, a report will be sent to the U.N. General Assembly and the U.N. Security Council. Mr. President, how does a report protect the American people?

Madam President, with no predetermined sanctions in place to deter potential violators, the CWC seems ineffective and unenforceable.

I am very sensitive to the needs and wishes of the small business-man. And while large multinational chemical corporations can bear the estimated astronomical costs regarding reporting requirements of a CWC member nation, these costs constitute a significant burden, in some cases an overwhelming burden, to small businesses, not just in Arkansas but all around America. There are roughly 230 small businesses which custom-synthesize made-to-order products and compete with large chemical manufacturers. It is my understanding that they generally have fewer than 100 employees and have annual sales of less than $40 million each. Few, if any, of them can afford to employ legions of lawyers just to satisfy the new reporting requirements of the CWC. Let us be realistic. Can these burdensome reporting requirements prevent the proliferation of chemical weapons?

In addition to the cost factor on our small businesses, the possibility of U.S. trade secrets being stolen during CWC inspections to me at least seems very high. I have been advised that the U.S. intelligence community has said that the CWC inspections constitute a new tool to add to our intelligence collection tool kit. Putting one and one together, inspections will also constitute a tool in the kit of foreign governments as well. I hope that the American people realize that U.S. expenditures as a member nation of the CWC include a mandatory 25-percent assessment for operating expenses of the Organization for the Prohibition of Chemical Weapons, the OPCW.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. HUTCHINSON. Madam President, I ask unanimous consent for an additional 3 minutes.

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

Mr. HUTCHINSON. As a member nation, we will pick up a 25-percent assessment for the operating expenses of the organization. This is the new international organization created to administer the CWC. It is my understanding that operating costs are likely to be a minimum of $100 million per year, $25 million of which will come from U.S. taxpayers.

Finally, it is my understanding that the CWC requires the United States to begin destruction of our chemical stockpile no later than 2 years after the treaty enters into force. I simply believe that is unreasonable and unattainable.

The Department of Defense has publicly stated that the U.S. destruction of its chemical weapons stockpile will continue regardless of whether we are a signatory to such treaty. We have one such arsenal in Pine Bluff, AR. I believe it is unrealistic to expect that the $12.4 billion cost in destroying those chemical weapons will be achievable particularly given the environmental concerns that exist. And I am being contacted daily by those with environmental concerns about the Pine Bluff arsenal. So I believe that the recent debate on Yucca Mountain further illustrates how problematic the fulfillment of our treaty obligations would be.

Madam President, I certainly want this body to provide a comprehensive domestic and international plan to reduce the threat of chemical and biological weapons. As I have already stated today, however, the CWC has too many loopholes that will perpetuate chemical weapon activity rather than end it. It is a serious obligation that we have. I believe that this body will make the right decision. For me, the words of Dick Cheney keep echoing: "Worse than no treaty at all."

For this Senator, I will be voting "no" on I believe a flawed, unfixable treaty. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I yield the distinguished Senator from New Jersey 7 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. I thank the Chair. I thank the Senator from Delaware for yielding.

Madam President, tomorrow the Senate will exercise its historic constitutional powers of treaty ratification. It is a solemn power that we have exercised for two centuries. That power has often defined the security of the Nation and sometimes been determinant of war and peace itself. The issue before the Senate now is the ban on chemical weapons, probably the most important foreign policy question remaining before the United States in this century.

Perhaps because the consequences are so great the choice is also clear. This treaty demands ratification. The treaty itself is a culmination of a process that began over 12 years ago under the leadership of Ronald Reagan. The United States began a review and then determined that it would eliminate chemical weapons. We did so because of the need to reduce the numbers of those weapons in the world and to restrict the ability of those nations that did not possess them to obtain them.

Since Ronald Reagan's judgment a decade ago, we have made extraordinary progress. In 1985, President Reagan signed into law a judgment that would eliminate American stockpiles by the year 2004, having an important impact on the ratification of this treaty because, whether it is ratified or not, no matter what judgments are made by this institution, the United States is going to eliminate chemical weapons. Second, the United States then followed our own judgment by leading the international effort with 160 other nations to enact a multilateral ban. It is the result of that process that is now before the Senate.

The process, it is important to note, did not culminate with the Reagan administration. In 1992, President George Bush announced a strong American support for the treaty and the United States became an original signatory. A year later, under President Clinton, the United States once again announced its support. Today, we have come full circle. From Ronald Reagan's first pronouncements, the treaty, now endorsed by a Democratic President, seeks ratification under a majority Republican Congress.

The Secretary of State said only a week ago:

> This treaty has "made in America" written all over it. It was Ronald Reagan's idea, George Bush negotiated it and signed it, and Bill Clinton has embraced it.

In truth, however, Madam President, the treaty is neither Democratic nor Republican. It reflects the bipartisan commitments of the United States toward our security, our values, and a century of learning the lessons of collective security because after 80 years of living under the threats of chemical weapons, it is the judgment of this administration and those that preceded it that it is time to eliminate these weapons.

The treaty does several direct and important things. It bans the development, production, and stockpiling of chemical weapons.

Second, it requires the destruction of all chemical weapons and their production facilities.

Third, it provides the most extensive verification process in the history of arms control.

Finally, it grants member nations the effective tools for dealing with those who refuse to comply, tools that will be denied the United States if we fail to ratify the treaty. And yet many of my colleagues have questioned the need for the United States to become a member state. They note two principal objections. First, that the burden of reporting requirements and verifications would be onerous on American industry; and second, the impact on American defense capabilities.

Allow me to deal with each. First, the economic impact. In my State of New Jersey, the chemical industry represents fully one-third of the entire industrial capability of the State; 150,000 citizens of the State of New Jersey are employed in this vital manufacturing industry of chemicals. Let us be clear. The entire industry, from small companies to among the largest industries in the State of New Jersey, not only supports this treaty but has joined in demanding its ratification.

Second, on the question of American defense capabilities, it should be self-evident that if the United States is unilaterally forgoing these weapons and rogue nations continue to embrace them, American military personnel will be more vulnerable and, indeed, endangered if the United States is not a signatory, allowing us to help enforce the provisions of the treaty and deny capability to rogue nations than if we are to remain on the outside.

That is why this treaty has been endorsed by General Powell, 17 other four-star generals and every former Chairman of the Joint Chiefs of Staff—in the Carter, Clinton, and Ford administrations.

I ask my colleagues who oppose this treaty, would all these members of the general staff, would each of these men who have held the principal responsibility for guiding and leading our Armed Forces have endorsed this treaty if there was any chance, if there was any judgment, that, indeed, our Armed Forces would be less safe?

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mr. TORRICELLI. Thank you, Madam President. I ask the Senator from Delaware to yield 3 additional minutes.

Mr. BIDEN. Without objection.

The PRESIDING OFFICER. The Senator may proceed.

Mr. TORRICELLI. Madam President, this is a moment of judgment that this Senate has faced before. History instructs us that we cannot afford to be wrong. Over 75 years ago, this body chose the wrong route and the toll was monumental. During consideration of the treaty for the League of Nations, the United States took the lead in forming the principles of collective security. It was our leadership which brought the world to understand that there was no separate peace, there was no individual security, and yet in that instance, as in this moment, the United States, after providing the intellectual and the political leadership, was a reluctant participant. The judgment then, we were told, was that there were reservations because of individual provisions of the treaty. But, indeed, history instructs us, and I believe would guide us now, that those reservations were not because of individual aspects of the treaty but because of a general ideologic opposition to arms control and the general notion of collective security.

It is time for the United States, after all the painful lessons of previous generations, to simply understand there is no unilateral security in a multilateral world. From Pearl Harbor to the Persian Gulf, history demands us to recognize an essential truth: American security, because of a changing world and developing technology, requires and demands that we deal with other nations.

The choice before this Senate is clear. From the doughboys who endured the horrors of mustard gas in the trenches of Europe, the Kurdish refugees who suffered in Iraq, to the refugees of Cambodia who suffered yellow rain, to our own veterans of the Persian Gulf, it is time to put an end to chemical weapons. That power is in the hands of the Senate. If we fail to do so, a host of rogue nations will take advantage of the opportunity.

Before this Senate on July 10, 1919, Woodrow Wilson closed the debate saying, "We are the only hope of mankind. Dare we reject it and break the hearts of the world."

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. HELMS. Madam President, I yield 10 minutes to the distinguished Senator from Idaho [Mr. CRAIG].

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, thank you and let me thank my chairman, not only for yielding but for his leadership on this most important issue that now is being thoughtfully and responsibly debated here on the floor of the U.S. Senate.

Madam President, the Chemical Weapons Convention has such far-reaching domestic and national security implications that it deserves the most thorough and thoughtful examination the Senate can give it. I have given this matter a careful review and would like to reiterate some of the conclusions I have reached.

If I thought supporting this treaty would make chemical weapons disappear, and give us all greater security from these heinous weapons, I would not hesitate in giving my support. Unfortunately, the facts do not demonstrate this; indeed, implementing this treaty may actually increase danger to U.S. citizens and troops.

The convention has been signed by 160 nations and ratified by only 74—less than 50 percent. Five countries who are thought to have chemical weapons are not even signatories of the convention: Egypt, Iraq, Libya, North Korea, and Syria. Another six nations have signed, but not ratified the convention: China, India, Iran, Pakistan, Israel, and Russia. In short, this convention is not global in scale.

Even if it were true that this treaty had been signed and ratified by 160 nations, serious problems would remain. Compliance with the Chemical Weapons Convention cannot be assured because it is not effectively verifiable.

I think it is timely and appropriate to remember, as others have mentioned, the principles of Ronald Reagan. Even though he started the process that we are debating today, he would have insisted in the end, while we might trust our allies and our friends around the world, that in every circumstance we must verify.

Unlike nuclear weapons which require a large, specialized industrial base, chemical weapons can be manufactured almost anywhere. Furthermore, many lethal chemicals are common and have peaceful uses. Chemicals help us to manufacture products such as pesticides, pharmaceuticals, plastics, and paints. With such a broad spectrum of uses, it would be difficult to discern the legitimate from the illicit.

It is also very disturbing to me that ratification of this treaty would abandon a fundamental arms control principle insisted upon over the last 17 years—that the United States must be able to effectively verify compliance with the terms of the treaty. Verification has meant that U.S. intelligence is able to detect a breach in an arms control agreement in time to respond appropriately and assure preservation of our national security interests. I believe the Senate has an obligation to uphold this sound standard. Let me take this opportunity to express my support for Senator HELMS' condition in this regard. I applaud his effort to make real verification a condition of CWC implementing legislation, if the treaty is ratified.

Even if verification of compliance were not a concern, this convention would be difficult to enforce. In a sound arms control treaty, the United States must be able to punish other countries caught in violation of the agreement. The Chemical Weapons Convention provides only vague, unspecified sanctions to be imposed on a country found in breach of the Convention. Ultimately, the Chemical Weapons convention leaves the U.N. Security Council to impose penalties severe enough to change behavior of an outlaw nation. Since any one of the five members of the Security Council can veto any enforcement resolution lodged against them or their friends, China and Russia, for example, could simply veto resolutions imposing sanctions if they disagreed with other Security Council members. In sum, it does not appear that this agreement is verifiable or enforceable.

Even if the enforcement mechanism to punish violators of the treaty were perfect, countries that represent the greatest threat to United States security such as Iran, Iraq, Libya, Syria, and North Korea have not ratified the treaty and would be under no obligation to comply with its terms and conditions. Furthermore, our intelligence experts tell us that each one of these countries has active and aggressive programs to develop and produce chemical weapons.

Iran has a stockpile of blister, choking, and blood agents possibly exceeding 2,000 tons. Their program is the largest in the Third World. Syria, which has been increasing production of chemical weapons since the 1980's, is home to several radical terrorist organizations, including Hamas, the Palestinian Islamic Jihad, and the Popular Front for the Liberation of Palestine. Many worry that Syria could easily supply these organizations with chemical weapons. North Korea has a stockpile of nerve gas, blood agents, and mustard gas. Additionally, North Korea has the ability to unleash large scale chemical attacks through mortars, artillery, multiple rocket launchers, and Scud missiles. Currently, Libya has one chemical weapons production facility in operation, and a larger plant under construction. Iraq has not only a substantial capability, but has demonstrated a willingness to use these weapons against their own people.

It has been observed that under the CWC, members to the convention would face no difficulty looking for prohibited chemicals in free and open countries which will accurately declare the location of chemical facilities. However, this situation will be much different for rogue states that are a party to the convention. As arms control verification experts correctly point out, "We've never found anything that's been successfully hidden." Let me repeat that: "We've never found anything that's been successfully hidden." Will the unintended consequence of the CWC be that villainous states will be more secure, and peaceful states less?

Furthermore, have all questions raised in regards to the convention's compatibility with our constitution been sufficiently addressed? The Convention creates an international monitoring regime called the Organization for the Prohibition of Chemical Weapons, or OPCW. The OPCW will be granted the most extensive monitoring power of any arms control treaty ever because it extends coverage to governmental and civilian facilities.

The authority of this international monitoring regime also raises concern about foreign nationals having such broad authority to obtain access to property held by private U.S. citizens. The U.S. chemical industry is known to be one of the top industries targeted for espionage by foreign companies and governments. There is legitimate worry that international inspections could jeopardize confidential business information, trade secrets, and other proprietary data. Since the United States will be expected to pay 25 percent, or approximately $50 million, of the OPCW's operating costs, American tax dollars could be subsidizing increased risk for U.S. business interests.

There is also an implementation cost that will be borne by private industry. The cost for each inspection has been estimated as high as $500,000 for large chemical companies, and a range of $10,000 to $20,000 for small companies. Costs could become even higher if a shutdown is required for an inspection to safeguard proprietary information or company security.

Another issue which has not been thoroughly discussed is how the costs incurred with the inspections are to be paid. Estimates of the number of companies to be inspected in America vary from 140 firms to over 10,000 firms.

And even though we would pay the lion's share of the international monitoring regime's budget, the United States would have no special status over other signatory nations, no veto power, and no assurance of being a member of the executive council.

In conclusion, making the production and possession of chemical weapons illegal according to international law will not make them disappear. Use of such weapons has been prohibited since 1925 yet we have seen the results of their use. We all know about the tens of thousands of deaths from poison gas in World War I, and no one could forget the tragic photographs of the Iranian children killed during the 1980's by the Iraqi government. Illegal? Yes, but still in use, nonetheless.

I stand today with all Americans expressing a grave concern over the increasing proliferation of chemical and

biological weapons. The real question here seems to be whether ratification of the Chemical Weapons Convention will increase our own national security. Unfortunately, the answer is no. There is little value in implementing international laws which do little to decrease illegal research, development, and proliferation of chemical weapons worldwide.

I support the goal of making the world safe from the threat of chemical weapons. I applaud the honorable statement the CWC makes against these heinous weapons. However, I believe the best way to protect ourselves from this threat is by rejecting this treaty. The convention does nothing to better our security, but may even open the door to increasing risks against our vital security interests and infringing on the rights of innocent citizens. For these reason, I am compelled to vote against the ratification of the Chemical Weapons Convention.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Who yields time?

Mr. BIDEN. Mr. President, I yield myself 3 minutes and then I will yield to the Senator from Ohio.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. BIDEN. No, I yield myself 3 minutes and then I will yield to the Senator from Ohio.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, I found it fascinating, the statement of my friend from Idaho. He made a very compelling case, from his perspective, as why we cannot verify the treaty and therefore why we should be against the treaty—because we cannot verify it. We cannot verify it because, he says, we cannot inspect sufficiently well. And that is why he is against the treaty. Then he says one of the other reasons he is against the treaty is because the verification regime is so intrusive that it will allow the opposition—allow rogue states to get access to information in the chemical industry.

So, if we correct one problem, which is to make it more verifiable, then he would argue he is against the treaty because it is verifiable. If you do not make it more verifiable, he said, he is against the treaty because it is not verifiable.

Mr. CRAIG. Will the Senator yield?

Mr. BIDEN. Not on my time. I will be delighted to yield on the time of the Senator, since I have limited time, on Senator HELMS' time.

Mr. CRAIG. I yield myself 1 minute off the time of Senator HELMS.

Mr. BIDEN. I will be happy to yield when I finish.

He also said the intelligence community says, "They have never found anything that is successfully hidden."

I do not know how many of you are golfers. That is like saying you cannot sink a putt if it is short. Obviously, a putt will not go in if it does not get to the hole. Obviously, you cannot uncover something that is successfully hidden.

The last point I would make is the chemical industry, the outfit that represents the bulk of the chemical industry has strongly endorsed this treaty. I am just responding to the last point that the chemical industry is the target. The chemical industry, coincidentally, is for this treaty.

But I would be happy, now, on Senator HELMS' time, to yield back to my friend from Idaho.

Mr. HELMS. Yes, I yield 3 minutes to the Senator from Idaho.

Mr. CRAIG. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Thank you, Mr. Chairman, for yielding me time. I think it is very important that what I said be what I said. Let me reiterate that it would be impossible to verify with rogue nations. We know in this country we will verify. Our chemical companies will be an open door. We have always played by the rules of the treaties we have signed and we have never intentionally or purposely violated them. That is not the point I was trying to make, and I think the Senator knows that.

But, what we do know is that for countries who choose not to play by international rules—and there are a good many out there—it would be difficult, if not impossible, for the international monitoring team to be able to verify compliance. I think that is the point. I have not even discussed, nor did I bring up the point of concern, that we would be releasing information. I am also concerned about espionage. And I did express that. So, it is important that that part of it be understood. Our chemical companies, by this treaty, would be an open door.

Let me also say I do not believe there is a chemical company in this country that is an expert in international affairs. Nor do I want the executives of these chemical companies negotiating a treaty. Nor do I want them establishing the foreign policy of this country. I believe that is the job of the Senator, and it is mine, and the job of this body, and of the President of the United States.

I'm sorry, no matter what the chemical industry says, frankly, I don't care. What I do care about is the security of this country. What I do care about is our national sovereignty. And what I do care about is the issue of verification. I think this treaty simply does not get us where we need to get for a safer world.

I must say, I am tremendously proud and I have supported this country's disarming itself of chemical and biological weapons. I encourage us to do that. We have done it and we ought to continue to do it and we ought to make sure that our troops in the field have adequate equipment to be able to protect themselves.

We must lead by example, but let's not walk into or create the illusionary track that I think the CWC simply offers to the world, and most assuredly to this country.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself as much time as I might take, and I am only going to take a few minutes.

Mr. President, the reason I mention the Chemical Manufacturers Association is not that they should determine the foreign policy. My friend from Idaho is saying that the target of this kind of espionage, or stealing secrets, whatever, is going to be the chemical industry. All I am pointing out is, just as they should not determine the foreign policy, I respectfully suggest my friend from Idaho does not know anything about their secrets. The chemical industry knows about their secrets, and they believe that this treaty fully protects them in maintaining their secrets. That is the point I was making.

You know that play and movie that is out, "Don't Cry for Me Argentina," well, don't worry about the chemical companies, they think they can take care of themselves in terms of their secrets.

One last point. The Senator raised, as others have raised, the 1 ton of weapons and 2 tons that could be amassed, et cetera. I want to point out what John Shalikashvili, Chairman of the Joint Chiefs of Staff, said, and he is not quoted by the Senator from Idaho, but others. Everyone quotes John Shalikashvili as saying that 1 ton of chemical weapons is militarily significant and that we cannot effectively guarantee we could uncover 1 ton. Let me read what General Shalikashvili said:

> A militarily significant quantity of chemical weapons is situationally dependent. Thousands—
>
> Thousands—
>
> of tons of chemical agent would be required to significantly impact on a large scale engagement while a mere ton of agent could be effective as a weapon of terror.

He went on to say:

> In certain limited circumstances—

I emphasize "in certain limited circumstances"—

> even 1 ton of chemical agent may have a military impact, for example, if chemical weapons are used as a weapon of terror against an unprotected population in a regional conflict.

He went on to say further:

> The United States should be resolute that the 1-ton limit set by the convention will be our guide.

He did not mean, however, that 1 ton was an appropriate standard for what

constitutes effective verifiability. Rather, General Shali meant that the 1-ton limit in the CWC on agent stocks for peaceful purposes—that is the context in which he talked about it—was appropriate and that any country's stock in excess of 1 ton would likely be for offensive military purposes.

So what he is saying—the 1 ton that keeps being used—he is saying if you detect that there is more than a ton of chemical weapons out there, they are probably doing it not for peaceful purposes, they are probably doing it to gain some military advantage. But it would take a lot more than 1 ton to have a major effect on a battle, a major effect on our security. He said it would take thousands of tons.

Other people may think in this body that 1 ton is militarily significant and if you can't effectively verify 1 ton then there is no verification in terms of our strategic interests. They may think that, but that is not what the Joint Chiefs think. The 1-ton reference was for the purpose of determining whether or not a country was trying to do more than use those chemicals for peaceful purposes. He says, if you have more than 1 ton, it is a pretty good sign that these are bad guys and they are trying to do something worse, but they are nowhere near being militarily significant in terms of U.S. security.

I see my friend.

Mr. HELMS. I think it is fair to let Senator CRAIG have another whack at it, and I do wish the former Democratic Secretary of Defense can be quoted on this subject as well. As a matter of fact, the news media ignored him entirely.

I yield the Senator 2 more minutes.

Mr. CRAIG. Mr. President, I thank my chairman for yielding, and I recognize and appreciate the patience of the Senator from Ohio. I will be brief.

It is very important that it not be suggested that all who are in favor makes it so lopsided that there is nobody in opposition. May I quote Donald Rumsfeld or James Schlesinger or, most important, Edward O'Malley, who was the Assistant Director of the Federal Bureau of Investigation, chief of counterintelligence under Ronald Reagan. He speaks of many companies' great concerns about both economic and secret espionage and expresses his opposition to it.

Here are the names of 25 major CEO's of chemical companies who stand clearly in opposition to this treaty. Mr. President, I ask unanimous consent that these ladies and gentlemen and their statements be printed in the RECORD.

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

AMERICA'S TOP FOREIGN POLICY, DEFENSE, AND ECONOMIC EXPERTS RAISE CONCERNS OVER THE CWC'S IMPACT ON U.S. BUSINESS

Steve Forbes, President and CEO of Forbes Inc.: ". . . . As I have strenuously argued on other occasions, maintaining America's competitive edge requires a lessening of the tax and regulatory burdens on the American people and on our Nation's enterprises. Unfortunately, the CWC will have precisely the opposite effect. It will burden up to 8,000 companies across the United States. Remember, these are in the hands of an international bureaucracy, not what we would like them to be, with major new reporting regulatory and inspection requirements entailing large and uncompensated compliance costs. These added costs constitute an unfunded Federal mandate. Like so many mandates, they are bound to retard our economic growth and make our companies less competitive.

. . . in addition to the costs arising from heavy duty reporting, the CWC subjects our chemical companies to snap inspections that will allow other nations access to our latest chemical equipment and information. No longer will violators of intellectual property rights in China, Iran, and elsewhere, have to go to the trouble of pirating our secrets . . . Some might even regard such burdens as a barrier to entry that can enhance their market share at the expense of their smaller competitors."

Donald Rumsfeld, former Secretary of Defense and President and former Chairman and CEO of G.D. Searle and Company: " . . . Big companies seem to get along fine with big government. They get along with American government, they get along with foreign governments, they get along with international organizations, and they have the ability, with all their Washington representatives, to deal effectively with bureaucracies . . . Indeed, that capability on the part of the big companies actually serves as a sort of barrier to entry to small and medium-sized companies that lack that capability. So I do not suggest . . . for one minute that large American companies are not going to be able to cope with the regulations. They will do it a whale of a lot better than small and medium sized companies . . .

I don't believe that the thousands—whatever the number is—of companies across this country know about this treaty in any detail, believe that the treaty would apply to them, understand that they could be subjected to inspections, appreciate the unfunded mandates that would be imposed on them in the event this were to pass."

James Schlesinger, former Secretary of Defense and former Director of Central Intelligence: "The convention permits or encourages challenge inspections against any facility deemed capable of producing chemical weapons—indeed, against any facility. This exposes American companies to a degree of industrial espionage never before encountered in this country. This implies the possibility of the capture of proprietary information or national security information from American corporations by present or by prospective commercial rivals.

. . . we are dealing with the possible industrial espionage in the United States, and that industrial espionage is going to be a godsend—I repeat, a godsend—to foreign intelligence agencies and to the corporations which will feed on those foreign intelligence agencies."

Lieutenant General William Odom, former Director of the National Security Agency: "Looking at the verification regime as a former official of the Intelligence Community, I am disturbed by it, not just because it is impossible to verify, but also because it can complicate U.S. security problems. Take, for example, the U.N.-like organization to be set up to make inspections. All of the appointed members may have no foreign intelligence links initially. As they find that they can tramp around in all kinds of U.S. production facilities, however, foreign intelligence services are likely to offer to supplement their wages for a little "technology collection" activity on the side. And they will provide truly sophisticated covert technical means to facilitate such endeavors."

Lieutenant General James Williams, former Director of the Defense Intelligence Agency: ". . . the opportunity for unfettered access to virtually every industrial facility in this country, not merely the pharmaceutical and chemical plants, would make most foreign intelligence organizations very happy, even gleeful. It is likely to cause the counterintelligence sections of the FBI and the Defense Investigative Service major problems for the foreseeable future. The inspection procedures which apply to ALL industries constitute unprecedented access to our manufacturing base, not just to those thought likely to be engaged in proscribed activities! My experience in protecting patents and intellectual property over the past ten years leads me to conclude that there is the potential for the loss of untold billions of dollars in trade secrets which can be used to gain competitive advantage, to shorten R&D cycles, and a steal US market share."

Edward J. O'Malley, former Assistant Director of Federal Bureau of Investigation, Chief of Counterintelligence: "The activities of the former Soviet Union and others are as aggressive as ever, and remain a major threat. What is new, however, is the increased importance given by them to the collection of American corporate proprietary information.

. . . One of the greatest concerns of companies . . . is that the CWC will open them up to economic espionage. I think their concerns are well-justified. . . . The acquisition of American trade secrets has become a high stakes business involving billions and billions of dollars, and I would be able to pay an agent handsomely to acquire such information"

Deborah Wince-Smith, former Assistant Secretary of Commerce for Technology Policy (in September 9, 1996, letter signed jointly by Secretaries Weinberger, Rumsfeld, and others): "What the CWC will do, however, is quite troubling: It will create a massive new, UN-style international inspection bureaucracy (which will help the total cost of this treaty to U.S. taxpayers amount to as much as $200 million per year). It will jeopardize U.S. citizens constitutional rights by requiring the government to permit searches without either warrants or probable cause. It will impose a costly and complex regulatory burden on U.S. industry. As many as 8,000 companies across the country may be subjected to new reporting requirements entailing uncompensated annual costs of between thousands to hundreds-of-thousands of dollars per year to comply. Most of these American companies have no idea they will be affected."

Bruce Merrifield, former Assistant Secretary of Commerce for Technology: "I am quite concerned about the Chemical Weapons Convention which, in its current form, would seriously diminish our U.S. competitive advantage in the currently existing hyper-competitive global marketplace . . . industrial espionage by countries that do not have an equivalent capability to make basic discoveries, now accounts for the theft each year of some $24 billion to perhaps over $100 billion of U.S. proprietary technology. The Chemical Weapons Convention would literally

open the floodgates of access to U.S. technology by foreign nations. Virtually unannounced inspections by scientific experts, taking samples and inspecting invoices can quickly uncover the proprietary nature of any industrial operation, bypassing millions of dollars of research and many years of development time that a U.S. company has expended to create its competitive advantage."

Kathleen Bailey, Senior Fellow, Lawrence Livermore Laboratories, former Assistant Director for the Arms Control and Disarmament Agency "Experts in my laboratory recently conducted experiments to determine whether or not there would be a remainder inside of the equipment that is used for sample analysis on-site.

They found out that, indeed, there is residue remaining. And if the equipment were taken off-site, off of the Lawrence Livermore Laboratory site, or off of the site of a biotechnology firm, for example, and further analysis were done on those residues, you would be able to get classified and/or proprietary information."

". . . My bottom line is that the use of treaty inspections for espionage is easy, effective, and all but impossible to detect . . . Hypothetically, an inspector could either be an intelligence official assigned to be an inspector or could later sell information to a company or country abroad that reveals either classified or CBI, confidential business information, that they might have gleaned through the process of gathering samples and analyzing them."

Ralph S. Cunninghan, President and CEO of Citgo Petroleum Corporation: "CITGO believes that the requisite inspections associated with the Treaty will, no doubt, jeopardize confidential business information as well as disrupt normal business operations.

We realize that the petroleum industry is not the specific target of this treaty. Nevertheless, it will be affected because of the extensive list of chemicals covered by the treaty."

William Arbitman, Associate General Counsel for the Dial Corp: "We are not prepared to receive a foreign inspection team to our facilities, and we would be greatly concerned that such a visit might compromise our confidential business information."

Kevin Kearns, President of the U.S. Business and Industrial Council: "On behalf of the 1,000 member companies of the United States Business Industrial Council (USBIC), I strongly urge you to oppose ratification of the Chemical Weapons Convention (CWC).

. . . the CWC effectively authorizes industrial espionage. The CWC offers no protections for company formulas and other trade secrets; they must be handed over if inspected. Nothing would prevent other unscrupulous countries such as France and China from placing intelligence officers on the inspection team."

Larry Postelwait, President of the Crosby Group, Inc.: "I have several concerns regarding the access of our facilities to a foreign inspection team. The treaty, as written, gives them too much authority considering they could interfere with our operations and affect production. It also makes us vulnerable to our global competitors since they could benefit from interfering with our production and from gaining close insight into our operations."

David M. Craig, Manager of Environmental and Safety Compliance for the Detrex Corporation: "Although reverse engineering of a product (the process of determining the products' composition or molecular structure) may be possible, many companies enjoy a competitive advantage in a market due to the manufacturing process used. Process "trade secrets" may include items as simple as: the type of equipment used, manufacturing parameters, or even who supplies a particular raw material. Allowing inspectors full access to a company's manufacturing site and records could have a large impact on a company's ability to compete in domestic and international trade."

Tracy Hesp, Assistant to the Director of Regulatory Affairs for Farnam Industries: "First, the short-notice challenge inspections that can be initiated by foreign states would be a burden physically and financially. We have confidential information concerning formulations and manufacturing procedures that we need to protect."

Lesa McDonald, Environmental/Safety Manager for the Gemini Company: " . . . hosting such an inspection would be a serious hindrance to our business. It would be very difficult to safeguard confidential business information during such an inspection.

We have serious reservations about the ability of more legislation and further regulation of U.S. industry to solve the chemical weapons problem. Further, since the countries of Libya, Iraq, Syria and North Korea refuse to sign this treaty, how will further reporting requirements, and inspection of businesses such as ours prohibit the development of chemical weapons?"

John Hobbs, Safety Coordinator for Crafco, Inc.: "The potential for abuse, specifically the theft of trade secrets both formulations and process oriented is significant. Unannounced inspections are also costly in terms of production disruption. A second concern would be that the apparent goals of this treaty are enforceable in the United States under already existing statutes. Industry sponsored terrorism in the form of chemical weapons manufacture is controllable without external intervention. Finally, without the assent of the states sponsoring terrorism this treaty really amounts to the good guys policing the good guys and picking up whatever they can in the process."

J. Doug Pruitt, President of the Sundt Corporation: "Based upon the depth of inspection, e.g. interviews with corporate personnel, employees, vendors, subcontractors; review of drawings, purchase orders, subcontracts; inspection and review of internal and external correspondence; we feel that it could be difficult to safeguard confidential business information during this inspection. This has to do not only with our internal corporate information but we would be concerned about information that we have signed a confidentiality agreement with our partners and/or customers."

U.S. COMPANIES ARE EXTREMELY WORRIED ABOUT THE CWC—A MASSIVE NEW PAPERWORK BURDEN

S. Reed Morian, CEO of Dixie Chemical Company, Inc. (a CMA-member company): "We would incur a significant increase in data reporting under the CWC. . . . I'm certain we could not comply with the CWC under our current budget. The CWC would probably require an increase in headcount at our plant. . . . It would be of little benefit for the U.S. to rigorously participate in the CWC, if ALL the nations of the world don't also participate.

Thank you again for allowing us this opportunity to comment on a treaty ratification that could impact us so greatly."

Robert Roten, the President and CEO of Sterling Chemicals (a CMA-member company): "We are very concerned about control and cooperation of other countries (Mexico, Colombia, North Korea, Iran, Iraq, Jordan, Libya, Croatia, etc.). Since they probably will not cooperate, how does this treaty assure a "worldwide ban?" . . . We are familiar with the Chemical Weapons Convention and we understand our responsibilities (and liabilities) should this treaty become U.S. law. . . . We cannot comply within our current annual budget and personnel constraints. Our best estimates is that this treaty will cost Sterling a minimum of $100,000 per year and should an inspection occur at least another $200,000–$300,000 will possibly be required."

Raymond Keating, Chief Economist for the Small Business Survival Committee: "Of course, smaller businesses will be hit hardest by these increased regulatory costs. Interestingly, the Chemical Manufacturers Association (CMA) supports ratification of the CWC and told the Senate Foreign Relations Committee that the new regulations would not be a burden. But the CMA is a group of generally large chemical manufacturers, and reportedly more than 60 percent of the facilities likely affected by the CWC are not CMA members.

Large companies possess far greater resources and have accrued significant experience in dealing with regulators of all kinds. In fact, new regulatory burdens can perversely give large firms a competitive edge over smaller companies due to these resource and experience factors. As economist Thomas Hopkins has shown, the per-employee cost of federal regulation runs almost 50 percent higher for firms with fewer than 500 employees versus companies with more than 500 employees."

Marvin Gallisdorfer, President of Lomac, Inc.: "It is not possible to estimate the amount of time that it will take to fill out the various CWC forms, but I can assure you that the total time will far exceed the 2–10 hour estimate found in Section 1.A. [of the Draft Department of Commerce Regulations.]. The instructions alone will require a substantial commitment of time. After the data is gathered, it must be checked thoroughly to assure accuracy, because an honest mistake can (and most assuredly will in some cases) lead to a $50,000 fine. Even if, however, we estimate a 20-hour commitment per form, where can we find the 20 hours? Our staff is already employed full-time filling out a host of forms and applications for the Michigan Department of Environmental Quality, the U.S. EPA, and other government agencies. I have enclosed, for your information, copies of the reports that we are required to file annually. As you can see, this is quite a bit of paperwork—and we are a relatively small (150–200 employees) company.

* * * I truly believe that this CWC will cost American jobs without any benefit. The United States can be trusted to refrain from making chemical weapons, but I cannot believe that certain other countries will abide by the treaty. Because of the adverse impact on Michigan's chemical industry (with little or no off-setting benefit) I urge you to vote against ratification of the treaty."

Edward Noble, Senior Corporate Environmental Specialist for ISK Biosciences Corporation: "In general, we believe that banning chemical weapons is a laudable goal. Since those countries most likely to instigate the use of chemical weapons are not among the signatories of the CWC, it would seem that this convention creates a lot of paper and does very little to gain the goal of eliminating chemical weapons."

Paul Eisman, Vice President of Ultraform-Diamond Shamrock: "* * * our costs have

increased by an estimated $1 million per year over the last couple of years just to meet new regulatory paperwork demands. We are incurring these costs, but should assume that our customers are paying for these in the long run * * *. We cannot comply with the requirements of this treaty with our current staff and resources. We estimate additional costs of $250,000 annually to comply."

Jim Moon, President of Moon Chemical Products, Inc.: "The reporting requirements in this treaty are a burden for any company not involved in weapons * * * We are manufacturers of industrial, institutional, and agricultural products. Several years ago we had to hire an outside consultant to make sure we meet government regulations for our business, our employees, and our customers. Please do not add another burden to our industry."

Nick Carter, President of South Hampton Refining Company: "No, we could not comply with this treaty within our current annual budget and personnel. The reason we are in business as a small refiner is that we change the operation quickly and often to meet the market. The reporting alone would require additional personnel, much less the cost of potential inspection, interpreting the regulations, etc. We currently have 10% of our work force assigned to nothing but regulatory functions, mostly environmental. At some point these non-profit producing efforts will outweigh the value of keeping the business operating.

* * * There are months where the cost of compliance with this treaty would completely eliminate the profit for the month. You can explain to our employees how this is more important to the nation than them getting a paycheck, or having health coverage, or having a retirement plan, or having a profit sharing check."

John Hohnholt, Vice-President of Valero Refining Company: "Valero is an independent refinery with limited staff resources which are already overwhelmed with regulatory compliance record keeping and reporting. This additional burden on our staff appears excessive and probably unintended for our industry."

Odus Hennessee, President and COO for Cosmetic Specialty Labs: "The ultimate result is to simply add unnecessary costs to the production of our products making it difficult if not impossible to sell our products in our own market, much less to compete in the international marketplace."

THE THEFT OF TRADE SECRETS

Don Fuqua, President of the Aerospace Industries Association: "We are very concerned, however, that the application of the Convention's reporting and inspection regime to AIA member companies could unnecessarily jeopardize our nation's ability to protect its national security information and proprietary technological data."

Rear Admiral Jim Carey, Chairman of 21st Century Coatings: "This communication is to urge you in the strongest possible terms to oppose the Chemical Weapons Convention on the grounds that it will cost my company an outrageous amount of money and subject us to intrusive international inspections that we can ill afford. We make paint under trade-secret technology that with one coat can stop all rust and corrosion for 50 years. We have spent the last 6 months researching construction of a new plant in Texas. The CWC will bring that effort to a screeching halt and instead we will look offshore. The CWC will not stop the world chemical weapons threat; it will only put people like us out of business."

Eduardo Beruff, President of SICPA Industries of America, Inc.: "For the reasons outlined below, we at SICPA Industries of America, Inc. ("SICPA") respectfully urge you to reject this treaty.

. . . SICPA Industries of America, Inc. is the foremost manufacturer of security inks used in printing U.S. currency, and is a leader in developing new security ink technologies to protect the nation's valuable documents and proprietary products. . . . The proposed Chemical Weapons Convention would impose new financial burdens on SICPA and similar companies in order to attain and maintain compliance. More importantly, it could jeopardize the security of SICPA's invaluable trade secret information."

S. Reed Morian, CEO of Dixie Chemical Company, Inc. (a CMA-member company): "While the intent of the CWC is of the highest merit, the regulations appear to be very onerous requiring increased reporting and record keeping, foreign inspection of our facilities, and a significant challenge to our ability to maintain Confidential Business Information (CBI) . . . We are not prepared to have a foreign inspection team in our plant. I doubt that CBI could be safeguarded during such an inspection."

Ralph Johnson, Vice President of Environmental Affairs of Dixie Chemical Company: ". . . If we use EPA inspections as an example, these foreign Chemical Weapon Convention inspections could cost up to maybe $50,000 per site. . . . These inspections would be very costly and burdensome. The biggest problem with these inspections, however, is . . . our highly probable loss of confidential business information. An inspector observing one of our reactors would know, for the product being observed, our operating pressures, temperatures, catalysts, reaction time, ingredients, purification methods, pollution abatement methods. We would no longer have any confidential technology, methodology, or know-how relative to this product. It would be gone forever."

Mr. CRAIG. Mr. President, I also ask unanimous consent that an editorial from the Wall Street Journal that I think speaks very openly to the concerns that many in the chemical industry have as it relates to what they would be required to do, which is open their doors wide and embrace an international inspection team, be printed in the RECORD.

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

[From the Wall Street Journal]

HERE COME THE SPIES

We've already made the case for why the Senate should reject the Chemical Weapons Convention. The last thing the world needs is another unverifiable arms control treaty. The worst danger here is creating the illusion that we are ridding the world of the threat of chemical weapons. But there's another danger: The treaty would be a bonanza to countries that are in the business of spying on American business.

Worst hit would be the defense and aerospace industry—and hence national security—but plenty of other industries would be subject to industrial espionage. There has never been an arms control treaty whose reach would extend so far into ordinary business, both through its reporting requirements and its inspection regime.

The CWC covers not just companies that manufacture certain chemicals and discrete organic chemicals, but also those that use them to make something else—such as automobiles, pharmaceuticals, electronics or even liquor. The Arms Control and Disarmament Agency has drawn up a list of more than 1,000 American companies that would be subject to the treaty's terms. Others say at least 6,000 companies would be affected.

The Chemical Manufacturers Association has been vocal in pooh-poohing the treaty's reporting and inspection requirements, which may in fact not be much for the CMA's already highly regulated membership of fewer than 200 companies. But companies that make such things as soap or tires or paint are going to find the paperwork alone an expensive new irritant.

Far more troublesome, however, is the treaty's proposed inspection regime, to be carried out by a new international bureaucracy in the Hague called the Organization for the Prohibition of Chemical Weapons. A better name might be the Organization for the Promotion of Industrial Espionage.

OPCW will conduct both routine inspections and "challenge" inspections at the request of member governments. Under the terms of the treaty, it would be next to impossible for the U.S. to halt a frivolous or abusive inspection. A challenge inspection would take place with less than a day's notice, and inspectors would have extraordinary access to files, data, equipment, etc. A company might as well post its trade secrets on the Internet.

The challenging country would send along an observer, and even though he wouldn't be permitted beyond a specified perimeter, there's a lot he would be able to learn from that distance. In a mock inspection that the U.S. carried out using the CWC's proposed rules, the "observer" was able to steal proprietary information simply by gathering soil and water samples from his spot on the edge of the inspection site.

Worse, there are no guarantees that the inspectors themselves won't moonlight as spies. Senator Helms raised this issue during Madeleine Albright's confirmation hearing in January. He pointed to evidence that Chinese applicants for OPCW inspector jobs had been "directed to volunteer" and that most had ties to the People's Liberation Army's chemical "defense" program. It's not hard to imagine the damage an inspector-spy could do. Reverse engineering is one threat, but even something seemingly as simple as the type of equipment used in a manufacturing process could constitute a trade secret.

All this poses a danger to national security. Kathleen Bailey of Lawrence Livermore National Laboratory testified to that effect before the Senate Foreign Relations Committee last year. She said "classified information can be obtained from sampling and analysis during, and perhaps after, inspections under the Chemical Weapons Convention. Furthermore, clandestine sampling would be virtually impossible to detect or to prevent." In the defense area, stealth technology is particularly at risk; a challenge inspection of a U.S. defense contractor could yield much on that score.

So far, the debate on the Chemical Weapons Convention hasn't moved beyond Washington to the boardroom. Only a few companies—Dial Soap and Citgo Petroleum among them—have spoken out against the treaty. It's perhaps understandable that most CEOs would assume that a treaty on chemical weapons wouldn't affect them. It does and they'd be wise to pay attention.

CWC IS WATCHING

From a May 14, 1996 list compiled by the Arms Control and Disarmament Agency of

companies that would be subject to the Chemical Weapons Convention: Archer Daniels Midland Co., Armco Steel Co., Castrol, Citgo Petroleum Corp., Colgate-Palmolive Co., Dial Corp., General Motors Corp., Gillette Co., Goodyear Tire & Rubber Co., Jim Beam Brands Co., Kaiser Aluminum, Lever Brothers Co., Maxwell House Coffee Co., Nutrasweet Co., Pfizer, Quaker Oats Co., Raytheon Co, Safeway Stores; Sherwin Williams Co., Simpson Timber Co., Winn-Dixie Stores, and Xerox Corp.

Source: Senate Foreign Relations Committee.

Mr. CRAIG. Mr. President, my point is simply this. There are reasonable people on both sides of this issue who differ and are very loud about the concerns they have. The chemical industry is not monolithic at all when it comes to support for this. There are a substantial number within it who are extremely concerned that they may expose their companies to tremendous economic risk and to the liability of the loss of their secrets that relate to the formulas for the production of peaceful goods and services to our country. I think it is important that that be said at this time and that the names and quotes of these ladies and gentlemen become a part of the RECORD.

I yield back any time.

Mr. BIDEN. Mr. President, I yield 30 seconds to myself. I ask unanimous consent that a statement of the Chemical Manufacturers Association be printed in the RECORD, as well as the list of those companies supporting this treaty.

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

CHEMICAL MANUFACTURERS ASSOCIATION,
Arlington, VA, April 18, 1997.

Hon. JOSEPH R. BIDEN,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: On April 24, the Senate will vote on whether to ratify the Chemical Weapons Convention (CWC). On behalf of nine organizations representing a broad spectrum of chemical producers, consumers, and professionals, I urge your strong support of this important treaty.

Opponents of the CWC contend that the treaty will have a catastrophic impact on American business, including a burdensome regulatory system, intrusive on-site inspections, and losses of proprietary information. The facts, however, bear out our belief that the CWC is the right thing to do:

Less than 2,000 facilities nationwide will have any responsibilities under the CWC. Of these, ninety percent will have to do no more than fill out a two-page report once a year.

The chemical industry helped develop the procedures by which fewer than 200 facilities will be inspected. We then tested those provisions in a series of full-fledged trial inspections at plant sites. We helped confirm that inspected companies have a role in determining how inspections will be conducted, and the extent to which inspection teams access the facilities.

Industry representatives helped write the treaty provisions that safeguard confidential business information. Chemical companies worked closely with the Administration in drafting the CWC implementing legislation that complements those safeguards.

The chemical industry has continued its efforts to further narrow the potential impact of the Convention on commercial interests. We successfully advocated a complete exemption for polymer and oligomer producers, which means that the plastics and textile industries are not subject to the Convention. We helped push an exemption for petroleum refineries and explosives manufacturers. We have worked to develop reasonable, low concentration limits that are commercially practicable, yet provide the level of verification necessary to assure that the CWC is not being violated.

On April 17, the Senate passed Senator Kyl's legislation, S. 495. Although Senator Kyl's legislation would generally expand the legal basis for domestic action against chemical weapons proliferation, it is important that you know that S. 495 is not a substitute for the Chemical Weapons Convention.

For example, S. 495 provides no mechanism for multilateral agreement to prevent or prohibit the production, storage, development or use of chemical weapons. It provides no means for investigating potential diversions to illegal weapons uses. And it does not remedy the trade impacts that will arise when the CWC's trade ban goes into effect three years from now. CMA estimates that some $500 to $600 million in two way trade will be at risk if this ban goes into effect. Moreover, S. 495 does nothing to prevent trade barriers being imposed by CWC Parties, aimed at U.S. trade in chemicals.

The chemical industry is America's largest exporter surpassing agriculture, aerospace, computers, etc. It is the world leader in technological development, research and innovation. The industry works hard to maintain that leadership. The industry has maintained a trade surplus for 68 consecutive years. You can be assured that the chemical industry would not be silent if the CWC truly jeopardized commercial interests.

For your further information, I have enclosed a copy of an advertisement that appeared in the April 14, 1997 issue of Roll Call. I have also enclosed a copy of a letter signed by members of CMA's Board of Directors, reiterating their support for this important agreement.

In short, Senator, we need your vote in favor of the Chemical Weapons Convention.

If you have any questions concerning the chemical industry's support for the CWC, please call me or Claude Boudrias, Legislative Representative for Tax and Trade at (703) 741-5915.

Sincerely,

FREDERICK L. WEBBER,
President and Chief Executive Officer.

APRIL 15, 1997.

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

DEAR SENATOR LOTT: We, the undersigned members of the Chemical Manufacturers Association's Board of Directors, are writing to ask you to support the Chemical Weapons Convention (CWC).

We believe the Convention is a fair and effective international response to the international threat of chemical weapons proliferation. Ratifying the CWC is in the national interest.

The CWC is a natural extension of existing U.S. policy. In 1985, Congress voted to end production of chemical weapons by the military and to begin destroying existing stockpiles.

For years, the United States has imposed the world's strongest controls on exports of weapons-making ingredients. Our nation is the standard bearer in preventing the spread of chemical weapons.

The CWC requires other nations to do what the United States is already doing. That's why President Reagan proposed the treaty to the United Nations in 1984. It's why President Bush signed the treaty in Paris in 1993. And it's why President Clinton is asking the Senate to ratify it.

The chemical industry has thoroughly examined the CWC. We have tested the treaty's record-keeping and inspection provisions. And we have concluded that the benefits of the CWC far outweigh the costs.

Ratifying the CWC is the right thing to do. We urge you to vote for the Convention.

Sincerely,

Frederick L. Webber, President & CEO, Chemical Manufacturers Association; J. Lawrence Wilson, Chairman & CEO, Rohm and Haas Company; Chairman, Board of Directors, Chemical Manufacturers Association; John E. Akitt, Executive Vice President, Exxon Chemical Company; Phillip D. Ashkettle, President and CEO, Reichhold Chemicals, Inc.; Bernard Azoulay, President and CEO, Elf Atochem North America; William G. Bares, Chairman and CEO, The Lubrizol Corporation; Jerald A. Blumberg, Executive Vice President, DuPont, Chairman, DuPont Europe; Michael R. Boyce, CEO & President, Harris Chemical Group; Vincent A. Calarco, Chairman, President & CEO, Crompton & Knowles Corporation; William R. Cook, Chairman, President and CEO, BetzDearborn Inc.; Albert J. Costello, Chairman, President & CEO, W.R. Grace & Co.; David J. D'Antoni, President, Ashland Chemical Company; John R. Danzeisen, Chairman, ICI Americas Inc.; Earnest W. Deavenport, Jr., Chairman of the Board and CEO, Eastman Chemical Company.

R. Keith Elliott, Chairman, President & CEO, Hercules Incorporated; Darryl D. Fry, Chairman, President and CEO, Cytec Industries Inc.; Michael C. Harnetty, Division Vice President, 3M; Richard A. Hazleton, Chairman & CEO, Dow Corning Corporation; Alan R. Hirsig, President & CEO, ARCO Chemical Company; Gerald L. Hoerig, President, Syntex Chemicals, Inc.; Jack L. Howe, Jr., President, Phillips Chemical Company; Jon M. Huntsman, Jr., Vice Chairman, Huntsman Corporation; Donald M. James, President & CEO, Vulcan Materials Company; Dale R. Laurance, President and Sr. Operating Officer, Occidental Petroleum Corporation; Raymond W. LeBoeuf, President & CEO, PPG Industries, Inc.; James A. Mack, President & CEO, Cambrex Corporation; Hans C. Noetzli, President & CEO, Lonza, Inc.; Robert G. Potter, Executive Vice President, Monsanto Company; Arthur R. Sigel, President & CEO, Velsicol Chemical Corporation; Enrique J. Sosa, Executive Vice President-Chemicals Sector, Amoco Corporation; William Stavropoulos, President & CEO, The Dow Chemical Corporation; F. Quinn Stepan, Chairman & President, Stepan Company; S. Jay Stewart, Chairman & CEO, Morton International, Inc.; Robert O. Swanson, Executive Vice President, Mobil Corporation; Rudy van der Meer, Member, Board of Management, Akzo Nobel nv;

Jeroen van der Veer, President & CEO, Shell Chemical Company; George A. Vincent, Chairman, President & CEO, The C.P. Hall Company; J. Virgil Waggoner, President & CEO, Sterling Chemicals, Inc.; H.A. Wagner, Chairman & CEO, Air Products & Chemicals, Inc.; Helge H. Wehmeier, President & CEO, Bayer Corporation; Ronald H. Yocum, President & CEO, Millennium Petrochemical Company.

Mr. BIDEN. Mr. President, just as my friend from Idaho knows a lot about mining and knows a lot about potatoes and knows a lot about apples, because they are big issues in his State, I assure you, being a Senator from Delaware, if there was any genuine opposition from the chemical industry for this treaty, since most of those companies are incorporated in my State and it makes up 56 percent of my State's economy, I assure you, I would hear about it.

Now, there may be some companies that do not like it, but I want to tell you, to use the expression, there may be reasons why for this in the minds of my colleagues, but none of the big boys, none of the outfits that do this as a big business, none of the outfits with multibillion-dollar operations, none of them, that I am aware of, are opposed to this treaty. They strongly support it.

I yield 7 minutes to my friend from Ohio.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Ohio.

Mr. GLENN. I thank the Chair, and I ask the Chair to please notify me when I have used 6 minutes.

Mr. President, I rise to urge my colleagues to vote in favor of ratification of the Chemical Weapons Convention with its 28 agreed conditions.

So far in this century, we have witnessed the use of chemical weapons in Europe, in China and in the Middle East, and we have seen the absolutely revolting photographs of victims of chemical weapons attacks at the Iraqi village of Halabja and the Tokyo subway. Some of us may have seen the famous photograph of the great violinist, Isaac Stern, performing in Israel while wearing a gas mask during the Iraqi occupation of Kuwait. Let there be no doubt about it, these weapons do present a clear and present danger to our security and the security of our allies around the world. They have not acquired the nickname, "poor man's nukes" for nothing. They are cheap to make, easy to conceal, and can have devastating effects.

Since 1995, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has held six hearings titled "Global Proliferation of Weapons of Mass Destruction," which documented in vivid detail the gravity of the threat our country faces from both chemical and biological weapons. The three committee prints covering these hearings contain over 2,000 pages of relevant documentation. While I was chairman of that committee, I chaired personally four hearings on "Global Spread of Chemical and Biological Weapons." In 1989, that produced another 746 pages of documentation on these threats and the various choices facing our country by way of responses.

Mr. President, today is not the day for additional hand wringing over these nightmares. Today is the day finally to do something truly constructive to alleviate these threats and stop the hand wringing. In this case, constructive means multilateral, since we are dealing here with a truly global threat, not one susceptible to solution by unilateral U.S. legislation. For example, bills like S. 495, which passed a badly divided Senate last week after virtually no serious debate and without a single hearing, would, if enacted, impose yet another death penalty, while opening up several new loopholes for continued U.S. possession of both chemical and biological weapons. Fortunately, we have an alternative approach to consider.

Today, we can vote on a resolution providing our advice and consent to ratify a treaty that does not just address the problem of halting the proliferation of these weapons, but a treaty that will also set the world on a course finally to eliminate such weapons everywhere. Though we will not obviously achieve these goals overnight simply by ratifying the CWC, we will be taking a crucial step toward achieving that ultimate goal.

My argument, simply put, is that we just cannot solve the global problems of the CWC destruction, proliferation, terrorism and warfare by acting alone. The international framework, machinery, reporting procedures, and enforcement and verification mechanisms of this treaty will complement and reinforce—not compete with, substitute for or compromise—our own national military, intelligence, and diplomatic efforts against the global CW threat.

The time has now come to put into place the international legal foundation necessary to eliminate chemical weapons once and for all. I am proud to be here on this historical occasion to speak on behalf of and to vote in favor of U.S. ratification of this treaty.

Mr. President, let me get into some highlights of the CWC. The CWC bans the development, the production, stockpiling, use, and proliferation of chemical weapons. It requires the destruction of existing weapons, chemical agents, and CW production facilities. It breaks new ground with a system of verification that is the most extensive in the history of weapons of mass destruction.

On November 23, 1993—over 3 years ago—President Clinton sent this treaty to the Senate for its advice and consent to ratification. Though the Senate has proceeded very, very slowly with the consideration of this treaty, the rest of the world seems prepared to go forward with or without us. Over 160 countries have now signed the treaty and 74 have already ratified it. So with or without U.S. ratification, the treaty will enter into force on April 29 of this year. At that point, world commerce in chemicals and chemical equipment will begin to take place within a multilaterally coordinated system that imposes real costs on nonparties to this convention. It is one reason why I support this treaty.

There is a widespread consensus among the military, the intelligence and the defense experts inside our Government that this treaty will serve our national interest. This consensus is bipartisan. Indeed, the convention was negotiated during the Reagan administration, signed by President George Bush and sent to the Congress by President Clinton.

Except with respect to nonparties, this treaty is completely nondiscriminatory: It obligates its parties not to develop or to possess chemical weapons, period. It does not divide the world up into one set of countries that may have these weapons and another set that may not. It works from a different premise, one more closely aligned with its cousin, the Biological Weapons Convention—by outlawing such weapons among the parties to the treaty, it will significantly strengthen international diplomatic efforts to make the prohibition truly global.

To ensure compliance, the treaty provides a verification system that operates on two dimensions. First, it provides for routine monitoring of potentially sensitive activities at declared chemical weapons sites, storage areas, and relevant civilian chemical industries. Second, it provides for a system of on-site challenge inspections operating on the principle of managed access to ensure the protection of proprietary information, constitutional rights, and national security interests. These inspections will be conducted by the Organization for the Prohibition of Chemical Weapons [OPCW]. This system of verification has been worked out not just in consultation with industry, but with the strong and continuing support of industry.

NOTHING PERFECT

I believe that this system of verification—coupled with the increased transparency of chemical transfers and activities at chemical facilities around the world—will, when backed by robust national intelligence capabilities, build a level of confidence in the world community sufficient to ensure that the treaty is being observed by its parties.

EVEN IF IMPERFECT—BETTER THAN PRESENT WITH NO RESTRICTIONS

This view is shared today by our military and intelligence officials. On

June 23, 1994, Gen. John Shalikashvili, the Chairman of the Joint Chiefs of Staff, summarized this judgment quite clearly when he testified that—"From a military perspective, the Chemical Weapons Convention is clearly in our national interest." On August 11, 1994, he specifically testified that—"Because of the regime of declarations, which then can be verified through routine inspection and challenge inspection, I believe that the CWC can be effectively verified." The treaty has also been supported by former generals Colin Powell and Norman Schwarzkopf, among many other top military and intelligence officials. It has the full support of The Joint Chiefs.

The verification system, in short, represents an appropriate balance between the need for intrusiveness and the need to protect commercial secrets and national security information. As a whole, the treaty will serve U.S. national interests in a number of ways. It will reduce the risk that chemical weapons will be used against our country. It will potentially reduce—but of course not eliminate entirely—the risk of terrorism involving chemical weapons. It will enhance the transparency of activities at chemical facilities around the world and thereby build confidence in CW disarmament. It will serve U.S. interests in combating the proliferation of chemical weapons. And it will, after the 10-year process of destroying existing CW stockpiles, remove many serious environmental hazards that faced citizens who live near plants that produced or stored chemical weapon agents.

COMMON CRITICISMS

It is not surprising that any great achievement in the realm of disarmament would encounter criticism. I am not going to claim that each and every one of these criticisms is totally unfounded. I am also not going to question the motives of those who make such criticisms. I believe it is good to hear the views of such critics, to listen carefully to their interpretations of the flaws of this treaty, to debate points on which there is disagreement, and to come to a decision on what is in the long-term interest of our country. This is what the whole ratification process is all about. Though no treaty is perfect and the CWC is no exception to this rule, by my reckoning the flaws in this treaty are not sufficient grounds for the Senate not to proceed with ratification.

I would now like to discuss briefly some of the main criticisms of the treaty that I have encountered over the many years this treaty has been awaiting a vote in the Senate.

No. 1. Lack of universality. It is true, not every country is a party to this treaty, nor is universal membership even a likelihood anytime soon. It may never be a universal agreement. There are several Arab countries, for example, that will no doubt refuse to enter into binding CW disarmament agreements until an agreement can also be reached concerning Israel's nuclear capability. Is this a sufficient cause to vote against the treaty? Absolutely not.

I know of no multilateral disarmament agreement that is truly universal, if that term is defined to mean that all countries on Earth are parties. True, the more countries that join the better. But opting for isolation hardly seems to me to be a rational way for a country to pursue the goal of universality. I cannot imagine anything that would set back the goal of universality of this treaty more than a decision by the Senate of the United States not to vote for ratification of this treaty, or to approve it with killer amendments. I believe this treaty will stand the test of time and will approach universality of membership as confidence grows in its credibility as a force for international peace and security. It will be a challenge for diplomats and national leaders of the 21st century to induce the hold-out countries into the CWC regime.

As for the treaty hold-outs specifically in the Middle East—including Iraq, Libya, and some other Arab states that critics cite as a reason why the United States should not join this treaty—let us remember that no country has a bigger stake in putting a halt to chemical weapon proliferation in that turbulent region than does Israel. And I think it is instructive that Israel has considered and chosen to ignore this particular criticism—it has signed the treaty.

No. 2. Verification problems. Now nobody questions that verifying a global ban on possessing or manufacturing chemical weapons will be a difficult undertaking, maybe even an impossible one, if the test of success is the ability to detect the secret manufacture of a small number of such weapons. Nobody doubts the widespread availability of the dual-use materials and know-how needed to make and to deliver chemical weapons. Nobody doubts that such weapons can be manufactured in very small facilities, some even as small as some hearing rooms here in the Senate, as our intelligence officials have openly testified.

In light of these basic facts of life about chemical weapons, the Report of the Senate Select Committee on Intelligence on the "U.S. Capability to Monitor Compliance with the Chemical Weapons Convention" (Rpt. 103-390) identified several potential difficulties in verifying this treaty. The committee's report, however, reads not as an indictment of the treaty, but as a convincing reminder of the need for America to maintain and upgrade its intelligence capabilities to grapple with such problems. I am concerned that some of my colleagues and outside commentators have looked at these challenges and simply concluded that it is impossible to verify this, or indeed any, CW disarmament treaty.

Though the treaty offers no absolute guarantee against cheating at the level of relatively small-scale violations—it will leave us far more secure than we would be without such a treaty. First, the reporting and inspection provisions of the treaty will enhance the transparency of global flows of chemicals and chemical production equipment—it will also give us better information about how such chemicals are used after they leave international commerce. Second, the challenge inspection system will give the United States a new means to check up on suspicious activities inside countries, including activities that may not even involve chemicals or chemical equipment that entered international commerce.

In short, we stand a much better chance of detecting, assessing, and mobilizing collective international action against potential CW-related activities by having a multilateral system of CW disarmament, than we would under the "go-it-alone" approach we would be left with as a non-party to this treaty.

I think Maj. Gen. John Landry—testifying before the Armed Services Committee as the National Intelligence Officer for General Purpose Forces—accurately summarized the view of the U.S. intelligence community when he said on August 11, 1994, that "we are better off with the treaty than without it." Former Defense Secretary Perry similarly observed on March 28, 1996, that despite the inherent difficulties of detecting illicit production of small quantities of chemical weapons, "we also recognize that that [detection capability] would be even more difficult without a CWC."

Let us keep in mind that when it comes to verifying international compliance with arms control, disarmament, and nonproliferation treaties, America does not rely exclusively upon the verification mechanisms in those treaties to judge compliance. Verification is achieved by these mechanisms operating alongside our own national intelligence capabilities. As I stated in my additional views to the SSCI's report on the CWC, the difficulties of monitoring this treaty underscore the importance of maintaining a highly capable U.S. intelligence community. If we work hard toward the goal of universal membership in the CWC and maintain or increase the capabilities of our intelligence community, then the lingering questions about compliance and verification would only fade accordingly. I would not be at all surprised if Russia were to ratify this treaty very soon.

It is useful to recall that the Russian scientist who blew the whistle in 1991 and 1992 on illicit Russian chemical

weapons activities is now a firm supporter of the CWC as a means to combat just such activities. On November 1, 1995, Dr. Vil Mirzayanov testified as follows before the Permanent Subcommittee on Investigations about the risk of theft of chemical agents in Russia:

I am sure that the system of international inspections provided for under the Chemical Weapons Convention will help address this problem . . . These are very strong tools and I hope that you will do your part to see that they are applied in Russia by pressing for the Senate's ratification of the Convention.

The fact that this statement came from someone who is one of Russia's toughest critics on chemical weapons issues will, I hope, inspire other treaty critics to reexamine their own views.

No, this is not the time to badger the CWC's verification system because it is unable to guarantee perfect international compliance. I wish we had some domestic criminal laws that would guarantee perfect compliance. Today is a day to rejoice that the CWC's verification system will soon be generating information that will be useful to our national leaders in detecting, characterizing, and defending against chemical weapons threats. When I hear all these criticisms about the treaty's verification system, I can only wonder—if these arguments are true, then why would Israel, which is located in one of the most dangerous neighborhoods on Earth, and which has so much at stake, sign such a treaty?

The answer is that the CWC serves Israel's national security interests for precisely the same reason it serves our own national security interests. It deserves the support of all nations, and the more support it has, the better the verification system will become. Remaining outside the CWC is no way to improve its verification system.

No. 3. *Cost*. Now with respect to cost, nobody can possibly predict exactly what it will cost to implement this treaty. The International Atomic Energy Agency's annual budget of about $200 million does not serve as a useful indicator of the cost of implementing the CWC given the many different functions of the respective treaty organizations, the IAEA and the OPCW. For fiscal year 1998, the administration has requested $25 million for meeting our CWC assessment and an additional $21 million for multilateral verification at U.S. facilities should that be necessary. This annual financial contribution approximates the cost of a couple of F–16 aircraft.

The Chemical Manufacturers Association [CMA] has estimated that the cost to industry of complying with this treaty is about ". . . one-onehundredth of one percent of the cost of environmental reporting in the United States." CMA estimates that industry's total CWC reporting costs for 1997 would come to less than $250,000 and will decline in subsequent years. CMA has also estimated, however, that the cost to industry of America not ratifying this treaty would be "hundreds of millions of dollars" and thousands of jobs.

As for the claim by some critics that the treaty will place a heavy regulatory burden on industry, CMA reports that in a recent field test it took less than 2 hours for producers of the broadcast category of materials—discrete organic chemicals—to fill out the appropriate reporting form. Some plant managers have estimated that they could complete this form in as little as 15 minutes. In recent field tests involving materials that are more tightly controlled, it took companies between 2–8 hours to complete the relevant paperwork. This does not seem to me to be an unduly burdensome procedure.

We all know that the costs of destroying CW agent material will of course be considerable, particularly in countries like the United States and Russia which have tens of thousands of tons of this material. But U.S. law already requires us to destroy these materials, whether or not we join the CWC.

The costs of having to defend against the use of such weapons—costs we have to pay regardless of whether America is a party to the CWC—will remain considerable, though this expense will decline as the world's stockpiles of CW materials gradually diminish in accordance with the treaty. The treaty, it should be noted, does not outlaw national defenses against chemical weapons nor does it ban military retaliation for CW users.

When it comes to measuring the true costs of this treaty, there is an absolute way and a relative way to measure these costs. The absolute approach merely adds up the costs of implementing the treaty and considers such costs in a vacuum. The relative approach compares these costs against various alternatives, such as costs we would have to pay in a world in which chemical war remains a clear and present danger, or a world with a CWC without the United States as a party.

I think that any fair assessment would need to compare the costs of implementing the CWC against the costs of chemical war—preparing for one, fighting one, defending against one, deterring one, and recuperating from one. Now there is no way that the absolute costs of implementing this treaty would ever outweigh the devastating costs of coping in a world armed to the teeth with chemical weapons. I just do not accept the argument that the costs of implementing this treaty are greater than the benefits to our national security from membership.

No. 4. Sovereignty and secrecy. Under the Constitution, the CWC will be a supreme law of the land. Ironically, some of the same critics of the CWC who argue that the treaty is not verifiable because it is not intrusive enough, also argue that the treaty is too intrusive insofar as it allegedly jeopardizes the U.S. constitutional rights. These questions have already been examined closely by the Congress, as well they should, and most Members would agree that these arguments have been overdrawn.

The main problem with this criticism is that it ignores the many safeguards that exist in the treaty to protect sovereign rights. First and most fundamentally, there is the right of withdrawal from the treaty on 90-days' notice. Second, the treaty's inspection system is far from a "no-notice" system—it prescribes a series of timetables which allow a state party time to prepare a site for inspection. The inspection itself is limited in time.

As the Department of State put it in its letter transmitting the treaty to the President, "The inspected State Party has the final say in determining the extent and nature of access within the challenged site." That is from the letter of November 20, 1993. This gets at the whole notion of "managed access," which lies at the heart of the CWC inspections system. Under this approach, the State Department letter continued, "the inspected State Party may give only individual inspectors access to certain parts of the inspection site, may shroud sensitive pieces of equipment, such as computer or electronic systems, and it may restrict sampling and sample analysis." Indeed, it is highly improbable that the U.S. chemical industry would have been such strong and chronic supporters of the CWC if this industry had concluded that the treaty would harm the competitiveness of U.S. industry or jeopardize company secrets.

Aside from industry, I can imagine that the scientific community should be quite well informed about the merits of this treaty, especially its alleged intrusiveness. Mr. President, I ask unanimous consent to have printed at the end of my remarks a list of 151 members of the National Academy of Scientists who are chemists or biochemists and who support this treaty, and another list, compiled by the Federation of American Scientists, of 45 Nobel laureates who also endorse this treaty. No doubt about it, American support for this treaty is both broad and deep.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibits 1 and 2.)

Mr. GLENN. Mr. President, No. 5. Other Criticisms. These are not the only lines of attack that critics have taken against the treaty in recent years.

First, would the CWC require a new strategic nuclear doctrine that actually encourages the use of tactical nuclear weapons, given the unavailability

of a CW alternative? Not very likely, given that our military has unparalleled conventional military options that are available to respond to and to deter any CW attack. In this respect, critics who urge the retention of a CW arsenal underestimate the power of our conventional military capabilities and overestimate both the value and likelihood of the use of tactical nuclear weapons. Typically, such critics also tend to ignore the impact of making such nuclear threats upon our global nuclear nonproliferation policy.

Second, it is true that the parties to the CWC are nation states, not nonstate entities such as terrorist groups that may seek to acquire such weapons. Though the treaty offers no guarantee against CW terrorism, the treaty's transparency provisions will at least operate to make it more difficult for terrorists to acquire equipment or materials for use in making such weapons and that in itself is a positive feature of the treaty. In particular, it will make it much more difficult for terrorists to engage in large-scale production of chemical weapons without detection. Since the CWC has never been intended to serve as a substitute for national efforts against subnational terrorism, I find this whole argument that the treaty is weak on terrorism to be a red herring.

I find it quite interesting that Japan—which was the victim of a recent chemical weapons attack by terrorists—has already ratified the CWC. In fact, Japan's Diet ratified the CWC within a month of the Sarin gas attack in the Tokyo subway. Though the treaty may not have been able to guarantee that this specific attack would not occur, Japan's leaders have obviously concluded that their country would still be better off with this treaty than without it. So would our country.

Third, critics have argued that the treaty lacks teeth. In fact, the CWC does not repeal the fundamental principle of national sovereignty that has dominated world affairs for over 300 years. The treaty does not intend for the OPCW to perform as a police force in a world state. Though the treaty provides procedures for mobilizing international action against treaty violators, sanctions must still be implemented by individual state parties to the treaty.

Nonparties to the treaty, however, will feel the teeth of this treaty. They will have a harder time participating in the world market for chemicals and chemical equipment. The few remaining CW states will in time feel the inevitable political pressures that come with the possession of internationally outlawed weaponry. And as the taboo on possession settles in the world community, so will the likelihood of strong international action against countries that would actually use such weapons. Sanctions against all forms of proliferation could always be strengthened, and I would certainly hope that this would be a high priority national security goal of this and future administrations. But the lack of mandatory sanctions in this treaty should not be confused with any lack of teeth—it will fall to the national diplomats, the leaders, and ultimately the people of the states that are CWC parties to sharpen this treaty's teeth. Though teething pains can be expected in the years ahead, sharper teeth will come.

Fourth, and most recently, critics have pointed to trade and cooperation provisions in the treaty as evidence of an alleged obligation to provide chemicals and chemical equipment that will help treaty cheaters to make chemical weapons. Frankly, this argument is hogwash. The very first article of this treaty obligates its parties "* * * never under any circumstances * * * to assist, encourage or induce, in any way, anyone" to acquire chemical weapons. Given this obligation—and given the treaty's inspection system and national intelligence capabilities to back it up—the only appropriate response to the accusation that the treaty will encourage peaceful trade and scientific exchanges is, so what?

The administration has been more than reasonable in accommodating the concerns of the critics. The fact that agreement was reached on 28 conditions hardly suggests a posture of stonewalling by anybody. But I cannot support any of the five additional conditions that have been offered concerning Russian chemical weapons activities, requiring terrorist states to join the CWC before we do, asserting a unilateral U.S. right to bar certain inspectors from certain countries, requiring the United States to seek the renegotiation of key provisions of the treaty on certain trade and CW defense issues, and adopting a verification standard based on a concept of military significance that is both inappropriate and unworkable. To the limited extent that these final conditions touch upon legitimate concerns, let us address these concerns inside the tent of the CWC, not by howling in the wilderness outside that tent.

CONCLUSION

Mr. President, I would like to conclude my remarks on a personal note. I have come a long way when it comes to the issue of CW disarmament. On May 21, 1985, I joined with three of my Senate colleague to argue in an Op-Ed in the Washington Post in favor of modernizing America's chemical weapons arsenal. At the time, there was scant prospect of a Chemical Weapons Convention. The Soviet Union was sitting on a huge CW arsenal and was threatening United States interests around the world. And our old so-called unitary chemical weapons were at best a national embarrassment, at worst an actual danger to American citizens and our own troops. I favored the safer binary weapons—safer for our own troops if they ever had to use them.

But times have changed. The Soviet Union has ceased to exist and there is significant support inside the Russian Government to follow through with Russia's obligations under the CWC, support which America has every reason to encourage in any way it can. Yes, there still are countries in the world today that have chemical weapons. There still is a terrorist threat involving such weapons. There is still a CW proliferation threat. Russia, though it will hardly be alone in this respect, will no doubt still seek to compete with us in many arenas of world affairs. And many of those old unitaries are still sitting around like rusting relics of a by-gone age.

Yet the world today is closer than ever to outlawing one of the most dangerous weapons that mankind has every devised. As a U.S. Senator for over 20 years now, I have at times encountered some of my colleagues who were simply unprepared to reconsider policy positions that they took in considerably different times and circumstances. I am determined not to follow that practice.

Mr. GLENN. In partial answer to Senator KYL's comments on export controls, I ask unanimous consent that this release by the Australia Group, which deals with export controls, be printed at the end of my remarks.

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

(See exhibit 3.)

Mr. GLENN. Mr. President, the only other thing I would add is that I have examined this treaty and listened to arguments both pro and con. I am convinced the time has finally arrived to move the campaign to eliminate chemical weapons into high gear. The CWC certainly offers no panacea to all risks concerning their proliferation or use of chemical weapons. It does, however, represent a substantial step along the way to alleviating these risks and, therefore, deserves the full support of the Senate and the people of the United States. I urge all my colleagues to vote for ratification.

I thank the Chair.

EXHIBIT 1

FEBRUARY 24, 1997.

Hon. TRENT LOTT,
487 Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LOTT: We, the undersigned scientists, urge you to work as a matter of national urgency to bring the Chemical Weapons Convention to a vote in the Senate before April 29 of this year. That is the date when the Convention will automatically enter into force, with or without the United States.

Negotiated by the administrations of Presidents Reagan and Bush, and signed by the United States under President Bush in January 1993, the Convention was formally

submitted to the Senate for its advice and consent to ratification by President Clinton in November 1993. Since then it has been the subject of thirteen hearings before the Committee on Foreign Relations, the Committee on Armed Services and the Select Committee on Intelligence. The Secretaries of State and Defense, the Chairman of the Joint Chiefs, the Director of Central Intelligence and the representatives of the Chemical Manufacturers Association have all testified strongly in favor of ratification. More than 65 countries, including all of our major allies, have ratified.

If the Senate fails even to vote on the CWC, after three administrations have been its leading architects and proponents, the United States will have surrendered by default its essential leadership in combating the proliferation of chemical weapons.

Respectfully,

Julius Adler.
Robert A. Alberty.
Sidney Altman. [1]
Fred C. Anson.
W. O. Baker.
John D. Baldeschwieler.
Robert L. Baldwin.
Allen J. Bard.
Neil Bartlett.
Helmut Beinert.
Howard C. Berg.
R. Stephen Berry.
Richard Bersohn.
Jerome A. Berson.
Klaus Biemann.
Jacob Bigeleisen.
Virgil Boekelheide.
Jan L. Breslow.
Leo Brewer.
Herbert C. Brown. [1]
Giulio L. Cantoni.
John A. Carbon.
Herbert E. Carter.
Charles P. Casey.
Thomas R. Cech. [1]
David Chandler.
Carolyn Cohen.
Mildred Cohn.
Robert E. Connick.
John D. Corbett.
Stanley J. Cristol.
James E. Dahlberg.
Samuel Danishefsky.
Earl W. Davie.
David R. Davies.
Peter B. Dervan.
William Doering.
Paul Doty.
Harry G. Drickhamer.
James L. Dye.
Isidore S. Edelman.
Mary P. Edmonds.
David Eisenberg.
Mostafa A. El-Sayed.
Ernest L. Eliel.
David A. Evans.
John D. Ferry
Edmond H. Fischer. [1]
Marshall Fixman.
Marye Anne Fox.
Josef Fried.
Carl Frieden.
Gerhart Friedlander.
Joseph S. Fruton.
Marshall Gates.
E. Peter Geiduschek.
Martin Gellert.
Walter Gilbert. [1]
Roy G. Gordon.
Robert H. Grubbs.
Lowell P. Hager.
George S. Hammond.
Dudley Herschbach. [1]
George P. Hess.
Robert L. Hill.
Mahlon Hoagland.
Bernard L. Horecker.
Donald F. Hornig.
William P. Jencks.
Harold Johnston.
Isabella L. Karle.
Martin Karplus.
Joseph J. Katz.
Walter Kauzmann.
Sung-Hou Kim.
James L. Kinsey.
William Klemperer.
Judith P. Klinman.
Irving M. Klotz.
Edward D. Korn.
Roger Kornberg.
Daniel E. Koshland, Jr.
Henry Lardy.
Robert Lehman.
Nelson J. Leonard.
Robert L. Letsinger.
Stephen J. Lippard.
William N. Lipscomb. [1]
F.W. McLafferty.
Jerrold Meinwald.
Matthew Meselson.
Thomas J. Meyer.
Josef Michl.
William H. Miller.
Kurt Mislow.
Mario J. Molina. [1]
C. Bradley Moore.
Manuel F. Morales.
Howard A. Nash.
Daniel Nathans. [1]
Elizabeth F. Neufeld.
Marshall Nirenberg. [1]
Harry F. Noller.
Leslie E. Orgel.
Mary J. Osborn.
Norman R. Pace.
Charles S. Parmenter.
Robert G. Parr.
George W. Parshall.
Ralph G. Pearson.
Gregory A. Petsko.
Kenneth S. Pitzer.
Charles M. Radding.
Julius Rebek.
Lester J. Reed.
Howard Reiss.
Stuart A. Rice.
Frederic M. Richards.
Irwin A. Rose.
F. Sherwood Rowland. [1]
William J. Rutter.
Lewis H. Sarett.
Robert T. Sauer.
Howard K. Schachman.
Peter G. Schultz.
Glenn T. Seaborg. [1]
K. Barry Sharpless.
Robert G. Shulman.
Maxine F. Singer.
Robert L. Sinsheimer.
Emil L. Smith.
David B. Sprinson.
George R. Stark.
Donald F. Steiner.
Joan A. Steitz.
Thomas A. Steitz.
Walter H. Stockmayer.
Gilbert Stork.
Jack L. Strominger.
Julian M. Sturtevant.
Dean Stanley Tarbell.
Henry Taube. [1]
H.E. Umbarger.
Peter H. von Hippel.
Salih J. Wakil.
Frederick T. Wall.
Cheves Walling.
James C. Wang.
Gregorio Weber.
Samuel I. Weissman.
Frank Westheimer.
Ralph S. Wolfe.

(All signatories are members of the United States National Academy of Sciences in the field of Chemistry or biochemistry)

[1] Nobel Laureate.

EXHIBIT 2

NOBEL LAUREATES URGES SENATORS TO RATIFY THE CHEMICAL WEAPONS CONVENTION

MARCH 11, 1997.

The Federation of American Scientists (FAS) has sent a letter to US Senators urging the Senate to ratify the Chemical Weapons Convention without delay. Support for the letter's goal of prompt ratification came from 45 Nobel prize winners who specifically confirmed their desire for CWC ratification.

The letter, signed by FAS Chairman, and former Deputy National Security Adviser to the President, Carl Kaysen, reminds Senators of the importance of U.S. ratification. The treaty requires "total elimination of chemical weapons stocks, prohibits chemical weapons-related activities, bans assistance for such activities, and bars trade with nonparties in certain relevant chemicals."

In ratifying the treaty, the U.S. would join 70 countries—including all major NATO allies and all other G–7 members—who have already ratified it.

The Federation of American Scientists is a national organization of scientists and engineers concerned with issues of science and global security.

FEDERATION OF AMERICAN SCIENTISTS,
Washington, DC, March 7, 1997.

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

DEAR SENATOR LOTT: The Chemical Weapons Convention (CWC) will enter into force on April 29, 1997, following its ratification by the 65th signatory nation in November, 1996. It has not yet been ratified by the United States.

This treaty bans an entire class of weapons of mass destruction. It is a nonproliferation treaty that requires total elimination of chemical weapons stocks, prohibits chemical weapons-related activities, bans assistance for such activities, and bars trade with nonparties in certain relevant chemicals. This treaty denies us no option we would otherwise wish to exercise, for the United States has already renounced chemical weapons and is in the process of destroying them. The CWC is a critical instrument for universalizing this policy and preventing the further spread of chemical weapons.

With no military interest in chemical weapons, the United States can only gain by ratifying the treaty, regardless of its level of verification. US accession is necessary to give the CWC the force of an international norm against the possession of chemical weapons. That norm alone would be powerful, providing a basis for joint action to enforce compliance.

But, in addition, the CWC provides new tools for deterring and detecting chemical weapons proliferation. The value of its provisions will grow with time, as the treaty's incentives work to increase the number of adherents. The declaration and inspection requirements will improve our knowledge of possible proliferation activities, whether conducted by nations or terrorists. Access to declared and undeclared sites will make clandestine operations more difficult, risky

and expensive; participating states will have the right to demand short-notice inspections of sites in other States Parties. The CWC's provisions constitute the most rigorous verification regime ever negotiated. At the same time, the treaty and the proposed US implementing legislation explicitly protect Constitutional rights and confidential and proprietary information.

During negotiation of the treaty, senior officials of the U.S. Chemical Manufacturers Association participated at the side of U.S. Government negotiators, and the chemical industry has consistently and publicly advocated ratification of the CWC. Now, if the treaty comes into force without U.S. ratification, its constraints on the chemical exports of non-parties will penalize the U.S. chemical industry. Should the Senate not ratify the Convention, the U.S. Government would also be excluded from a seat on the CWC's governing body, and from participating in the establishment of operating procedures. At the same time, as signatories we will be obligated to abide by the treaty's prohibitions.

Since the treaty was opened for signature in 1993, the United States and 166 other countries have signed it. Further, 67 countries, including all the major NATO allies, have deposited their instruments of ratifications, as have all other G–7 members.

In order to draw the attention of the Senate to the importance of this issue, the Federation of American Scientists has secured the specific endorsement of 45 Nobel Prize winners to the ratification of the Chemical Weapons Convention, and records their names below.

Yours sincerely,

CARL KAYSEN,
Chairman, FAS.

I urge the U.S. Senate to ratify the Chemical Weapons Convention without delay.

Signed by: Sidney Altman, Philip W. Anderson, Kenneth J. Arrow, Julius Axelrod, David Baltimore, Helmut Beinert, Konrad Bloch, Baruch S. Blumberg, Herbert C. Brown, Stanley Cohen, Leon N. Cooper, Johann Deisenhofer, Renato Dulbecco, Gertrude B. Elion, and Val L. Fitch.

Walter Gilbert, Dudley R. Herschbach, David Hubel, Jerome Karle, Arthur Kornberg, Edwin G. Krebs, Joshua Lederberg, Leon Lederman, Wassily W. Leontief, Edward B. Lewis, William N. Lipscomb, Mario J. Molina, Joseph E. Murray, Daniel Nathans, Arno A. Penzias, and Norman F. Ramsey.

Burton Richter, Richard J. Roberts, Martin Rodbell, F. Sherwood Rowland, Glenn T. Seaborg, Herbert A. Simon, Phillip A. Sharp, R.E. Smalley, Robert M. Solow, Jack Steinberger, Henry Taube, James Tobin, Charles H. Townes, and Eric Weischaus.

EXHIBIT 3

AUSTRALIA GROUP MEETING

Australia Group participants held informal consultations in Paris between Oct. 14–17, to discuss the continuing problem of chemical and biological weapons (CBW) proliferation. Participants at these talks were Argentina, Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, the European Commission, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, United Kingdom and the United States, with the Republic of Korea taking part for the first time.

Participants maintain a strong belief that full adherence to the Chemical Weapons Convention (CWC) and to the Biological and Toxin Weapons Convention (BTWC) will be the best way to eliminate these types of particularly inhumane weapons from the world's arsenals. In this context, the maintenance of effective export controls will remain an essential practical means of fulfilling obligations under the CWC and the BTWC.

All participants at the meeting welcomed the expected entry into force of the CWC, noting that this long-awaited step will be an important, historic moment in international efforts to prohibit chemical weapons. Participants agreed to issue a separate statement on this matter, which is attached.

Participants also welcomed the progress of efforts to strengthen the BTWC in the negotiations taking place in the Ad Hoc Group of BTWC States Parties in Geneva. All Australia Group participating countries are also States Parties to this Treaty, and strongly support efforts to develop internationally-agreed procedures for strengthening international confidence in the treaty regime by verifying compliance with BTWC obligations.

Experts from participating countries discussed national export licensing systems aimed at preventing inadvertent assistance to the production of CBW. They confirmed that participants administered export controls in a streamlined and effective manner which allows trade and the exchange of technology for peaceful purposes to flourish. They agreed to continue working to focus these national measures efficiently and solely on preventing any contribution to chemical and biological weapons programs. Participants noted that the value of these measures in inhibiting CBW proliferation benefited not only the countries participating in the Australia Group, but the whole international community.

Participants also agreed to continue a wide range of contacts, including a further program of briefings for countries not participating in the Paris consultations to further awareness and understanding of national policies in this area. Participants endorsed in this context the importance of regional seminars as valuable means of widening contacts with other countries on these issues. In particular, Romania's plans to host a seminar on CBW export controls for Central and Eastern European countries and the Commonwealth of Independent States in Bucharest on Oct. 21–22 and Japan's plans to host a fourth Asian Export Control Seminar in Tokyo in early 1997 were warmly welcomed by participants. Argentina will also host a regional seminar on non-proliferation matters, in Buenos Aires, in the first week of December 1996. France will organize a seminar for French-speaking countries on the implementation of the CWC. This will take place shortly before entry into force of the Convention.

The meeting also discussed relevant aspects of terrorist interest in CBW and agreed that this serious issue requires continuing attention.

Participants agreed to hold further consultations in October 1997.

AUSTRALIA GROUP COUNTRIES WELCOME PROSPECTIVE ENTRY INTO FORCE OF THE CHEMICAL WEAPONS CONVENTION

The countries participating in the Australia Group warmly welcomed the expected entry into force of the Chemical Weapons Convention (CWC) during a meeting of the Group in Paris in October 1996. They noted that the long awaited commencement of the CWC regime, including the establishment of the Organization for the Prohibition of Chemical Weapons, will be an historic watershed in global efforts to abolish chemical weapons for all time. They also noted that all states adhering to the CWC are obliged to ensure their national activities support the goal of a world free of chemical weapons.

All of the participating countries reiterated their previous statements underlining their intention to be among the original States Parties to the CWC. They noted that 24 of the 30 countries participating in the Australia Group have already ratified the Convention. Representatives also recalled their previous expressions of support for the CWC, and reaffirmed these commitments. They restated their view that the effective operation and implementation of the CWC offers the best means available to the international community to rid the world of these weapons for all time. They called on all signatories to ratify the CWC as soon as possible, and on the small number of countries which have not signed the Treaty to join the regime and thereby contribute to international efforts to ban these weapons.

Representatives at the Australia Group meeting recalled that all of the participating countries are taking steps at the national level to ensure that relevant national regulations promote the object and purpose of the CWC and are fully consistent with the Convention's provisions when the CWC enters into force for each of these countries. They noted that the practical experience each country had obtained in operating export licensing systems intended to prevent assistance to chemical weapons programs have been especially valuable in each country's preparations for implementation of key obligations under the CWC. They noted in this context, that these national systems are aimed solely at avoiding assistance for activities which are prohibited under the Convention, while ensuring they do not restrict or impede trade and other exchanges facilitated by the CWC.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I yield myself 1 minute.

Mr. President, I have received a very fine statement by a distinguished former Member of this body, Malcolm Wallop of Wyoming, a gentleman and Senator whom I admire very much. He is now chairman, by the way, of the Frontiers of Freedom. I ask unanimous consent that his statement be printed in the RECORD.

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

BAD TREATIES DO MAKE SECURITY PROBLEMS WORSE

(By Malcolm Wallop)

On Thursday, April 24th, the U.S. Senate will debate and vote on ratification of the Chemical Weapons Convention. As is the case with many pieces of legislation like the Endangered Species Act and The Comprehensive Antiterrorism Act of 1995, the Chemical Weapons Convention sounds great. Who can be against the Convention except those who like chemical weapons? Dig deep, however, and you will find how bankrupt and harmful the Chemical Weapons Convention can be, if ratified. Ken Adelman, noted arms control expert an proponent of this Convention, admits forthrightly, in a Washington Post op-

ed that "no accord banning all chemical weapons can be verifiable in any real sense. The convention's verification provisions may help somewhat, but not all that much."

This reality virtually assures that the treaty will be violated by many who sign up, as well as having no effect whatsoever on several dangerous chemical weapon states—such as Iraq, Syria, North Korea and Libya—that have said they will not become parties.

With this devastating admission, virtually the only argument left for the Chemical Weapons Convention is the proposition, as Adelman puts it, that "standards and values violated are better than no standards or values at all." According to this logic, we will be better off being party to a treaty that cannot and will not reduce the chemical weapons threat because of the civilizing effect such "international norms" create.

The implication is that the "international norm" will somehow enhance our security. In fact, quite the contrary is true—as former Secretaries of Defense James Schlesinger, Donald Rumsfeld and Caspar Weinberger observed in a Washington Post op-ed dated March 5th.

That this can happen with even relatively practical "international norms" can be seen in one cited by Adelman, himself in a follow-up to the March 5th op-ed—the Nuclear Non-Proliferation Treaty. Even its strongest admires recognize that this treaty has a terrible flaw: Its "Atoms for Peace" provision which permits the sharing of nuclear weapons-relevant technology with countries that promise not to apply it to that end. One rogue nation after another has violated this promise, giving rise to a large and growing number of undeclared or incipient nuclear weapon states. Unfortunately, a similar flaw has been built into the Chemical Weapons Convention, virtually assuring that this new "norm" will produce more proliferation of chemical weaponry, not less.

If anything, Mr. Adelman, as a spokesperson for proponents for the treaty; exaggerates the value of unverifiable, unenforced "international norms" which validates a central concern expressed by the three Secretaries: Such "norms" frequently induce a false sense of security in law-abiding societies.

This dangerous placebo effect of defective arms control agreements is especially evident with respect to another "international norm" lauded by Mr. Adelman, namely, the Biological Weapons Convention. Adelman contends that this treaty—which he acknowledges lacks "even a pretense of verifiability"—has, nonetheless, "served us fairly well."

Regrettably, this Convention has not prevented the spread of biological weapons and related technology to virtually every dangerous country on the planet. The "international norm" created by the Biological Weapons Convention has, however, encouraged the United States government to remain woefully unprepared to deal with the threat such weapons pose.

This point is dramatically made in the cover story of the March 14-20, 1997 edition of Washington City Paper. This article is entitled "Margin of Terror—The Government has One Clear Strategy for Responding to a Terrorist Attack on Washington: Pray."

It describes in detail how the United States' systematic failure to ready the resources and emergency personnel—to say nothing of the American people—to contend with the nightmare of weapons of mass destruction in the subways or other public spaces of cities like Washington could easily translate into hundreds, if not many thousands, of casualties.

The U.S. military has proven no more immune to the seductive effects of ineffectual "international norms" created by unverifiable arms control treaties. Operation Desert Storm illuminated serious shortfalls in the armed services' capability to operate and prevail in combat should chemical and/or biological weapons be used. These shortfalls persist today to varying degrees thanks, in part, to illusion that "international norms" will make that sort of combat unlikely.

Overstating the value of international accords has one other deleterious effect: It tends to make the United States and other law-abiding states reluctant to respond to violators of such accords. As with President Clinton's successive decisions to grant MFN to China—despite its repeated violations of undertakings concerning human rights and the curbing the spread of nuclear weapons and missile technology, the argument is always made that larger national interests must be taken into account. When the Untied States winds up ignoring violations in the interest of preserving an arms control regime, however, the effect is not only to invite further violations but to undermine the value of the "international norm" thus created.

Those who believe that arms control can make a measurable contribution to U.S. security and civilized intercourse between states have a special responsibility to avoid debasing the currency of international law. Unverifiable, unenforceable accords do not promote valuable "international norms" any more than unverifiable, unenforceable domestic statues like Prohibition lead to a sober and law-abiding society. The difference is that the former threaten to make arms control a sham—an outcome that can translate into incalculable harm to our Nation and its people.

(Malcolm Wallop represented Wyoming in the United States Senate from 1976-1995 and is currently chairman of the Frontiers of Freedom Institute, a non-partisan, public policy organization located in Arlington, VA.)

Mr. HELMS. Mr. President, I yield 20 minutes to the able Senator from New Hampshire, a great patriot, BOB SMITH.

Mr. SMITH ofNew Hampshire. Thank you very much, I say to Senator HELMS.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from New Hampshire.

Mr. SMITH of New Hampshire. Thank you, Mr. President.

I thank the distinguished chairman of the Foreign Relations Committee for his tremendous leadership on this matter. He has been steadfast. I have been in a number—several hours and days—of meetings with him as he has tried very hard to get this treaty into a position where it could be acceptable to some of us—to all of us. But in this case, Mr. President, I have to maintain my opposition to this convention.

Contrary to the assertions of its proponents, this treaty will not advance our national interests, and as a Member of the U.S. Senate, I must put the national and sovereignty interests above all others when it comes to votes here on the Senate floor. This is a flawed accord that will undermine our security and create a massive, unfunded regulatory burden on U.S. companies. And the Senate should reject it.

Let me make clear, I do not object to the goal of eliminating chemical weapons, although those of us who have taken a position in opposition to this treaty will be accused of that, and have been. In fact, as a member of the Armed Services Committee, I have consistently supported funding for our Nation's chemical demilitarization program. Certainly, we all support the goal of eliminating chemical weapons.

But this treaty will not accomplish that goal. Sometimes we forget that fact as we debate these issues that have a great-sounding name. It does not even come close. For the benefit of my colleagues, I want to highlight some of the most egregious problems with this treaty.

First of all, it is not a global treaty. Its advocates would have you believe that it is. It is not global. In fact, many nations believed to have active chemical weapons programs, such as Iraq, Libya, North Korea, and Syria, have not even signed on to the treaty and they are not bound by any provisions.

Additionally, other confirmed or suspected chemical weapons nations, such as India, Iran, Pakistan, and Russia, have signed the treaty but do not seem very likely to ratify it or even comply with it.

For the life of me, I cannot understand how anyone could possibly stand here on the floor of the U.S. Senate and say this is a global treaty if the most heinous anti-American regimes on the face of the Earth are not even a party to it. They are going to be making chemical weapons, and nobody can do anything about it. That is like saying we have a global treaty outlawing terrorism, but Iran, North Korea, Syria, and Lebanon are not a part of it. Why not have another treaty and outlaw terrorism? Well intended; great goal. Why not just pass a treaty and we will outlaw it? That will be the end of it.

It is absurd, not to mention patently false, to allege that this Chemical Weapons Convention is a global treaty. Iraq used chemical weapons on its own citizens in the last decade—on its own people. How can we have a global treaty banning chemical weapons without Iraq? Could somebody please answer that question for me? It is not global. And we are not banning chemical weapons in Iraq. We are inspecting the devil out of Iraq and we still do not know what they are doing and what they can and cannot do.

Mr. President, not only is this treaty not global, it is not verifiable according to the U.S. intelligence community, not according to Senator SMITH, but the U.S. intelligence community.

In testimony before the Foreign Relations Committee, former Director of Central Intelligence, James Woolsey stated:

The chemical weapons problem is so difficult from an intelligence perspective that I cannot state that we have high confidence in our ability to detect noncompliance, especially on a small scale.

This is not exactly a ringing endorsement for this treaty, particularly when it is coming from a person who is representing an administration that supports it and that is bringing it here to the Senate. Let us be honest, there is no way we are going to be able to verify compliance, and everybody on this floor knows it. The proponents, as well as the opponents, know that.

The United Nations Special Commission on Iraq was established following the gulf war to oversee the dismantling of Iraq's chemical, biological, and nuclear weapons programs. There have been over 1,000 inspectors searching every nook and cranny in Iraq for the past 5 years, yet we continue to uncover new evidence and new revelations regarding Iraq's programs to develop weapons of mass destruction.

I say to my colleagues on the floor, now that you have seen all these inspections, you all feel very comfortable, I am sure. Now you have the full knowledge that Iraq does not have any chemical weapons or any biological weapons or any nuclear weapons. Everybody feels real comfortable with that. We have inspected them, so everybody is certain. Right.

Iraq is the most heavily monitored and inspected country on Earth. We have more access to Iraq than the chemical weapons treaty will ever provide for any country. If we cannot determine after 5 years just how large and sophisticated Iraq's chemical weapons program is, how on Earth are we going to be able to verify compliance for the dozens and dozens of countries supposedly bound by this treaty? The answer is simple. We cannot. We are not going to be able to do it.

We will move into classified session later on, tomorrow, to more fully examine the intelligence community's assessment. I urge my colleagues to come to that session and listen to the facts from our intelligence community.

Noncompliance is not something to take lightly. Without adherence by all parties, no treaty is worth the paper it is written on—never has been, never will be. But we cannot verify this treaty. We know for a fact that some of its signatories have routinely and repeatedly violated other treaties in the past. So they have a track record.

Russia has the world's largest chemical weapons arsenal. The former Soviet Union routinely violated its arms control obligations whenever it was convenient, whenever it was in their best interest. Russia remains in violation of the Biological and Toxic Weapons Convention and the CFE treaty. Thus, it is clear that the cold war pattern of noncompliance did not end when the Soviet Union ended.

Russia has also made clear that it has no intention of ratifying the chemical weapons treaty or complying with its provisions unless the United States provides a massive aid package to pay for destruction of its arsenal. Mr. President, where I come from in New Hampshire, this is called blackmail. That is what it is. And I object to it. We are already committed to spending $12 billion to eliminate our own chemical weapons arsenal. Are we supposed to foot the bill for Russia's as well now?

Let us not forget we are already giving Russia billions of dollars in ransom for the START I and START II treaties, even though they have yet to ratify START II. With the hard-line Communists and nationalists gaining 33 percent of Parliament seats in the recent Russian elections, can anyone actually believe that this situation is likely to improve? I do not think so.

Russia is not implementing the 1990 bilateral destruction agreement in which it pledged to substantially reduce its chemical weapons arsenal. The DIA stated Russia is moving so slowly that no meaningful reduction of its arsenal is likely to occur in the next decade. These are facts that the proponents do not want you to hear, Mr. President. The DIA has expressed skepticism regarding the veracity of Russia's data declarations. It appears highly likely that Russia has grossly underreported its chemical weapons arsenal.

Finally, it has been widely reported in the international publications that Russia is developing new binary weapons that are highly lethal, yet contained none of the chemicals—none of the chemicals—listed on the treaty's schedules. If this is true, Russia will be capable of circumventing this treaty in a very significant and, frankly, destabilizing way. We will be considering this issue in more detail during the closed session, but I want to say here and now that this is a very, very big problem and it ought to be looked at very closely.

It gives me no pleasure to take the floor of the Senate and raise these troubling issues. I would like to be for this treaty. I wish it banned all chemical weapons. But the fact of the matter is, it does not, and I have a constitutional responsibility to look carefully at these issues and act in a manner that I believe advances our national security.

This treaty is deeply flawed—deeply flawed. No amount of public relations spin, no amount of pressure from the White House or from anybody else can change that issue. Certainly it is not going to change this Senator's mind.

I know that many of my colleagues think that since the cold war is over arms control issues do not matter anymore. I know many Members who would just as soon focus on issues that seem to be drawing more attention in the polls. But as the stewards of national security, we do not have that luxury. We cannot afford to sweep these issues under the rug for the convenience of political expediency.

Mr. President, in addition to these important national security considerations, I want to highlight for my colleagues the enormous burden that this treaty will place on U.S. businesses. Under the treaty, there would be two basic types of inspections: routine and challenge. Routine inspections are to be directed at sites producing chemicals that present the greatest risk of diversion to weapons uses. A nation could be subject to up to 20 routine inspections per year, and a specific site up to two routine inspections. Challenge inspections would occur by request by a party to the treaty and can take place with very little advance notice. There is no limit to the number of challenge inspections that can take place.

The United States also, Mr. President, will be obligated to pay 25 percent of the operating expenses of this organization. Does that sound familiar? Think of the United Nations and other international organizations where we wind up footing most of the bill. Membership on the Executive Council is determined by a rotating regional formula, with the majority of seats allocated to third world countries. The United States would not necessarily be represented on the council at all times and there is no U.S. veto, as there is in the U.N. Security Council.

This represents a new open-ended entitlement for another United Nations-style bureaucracy. I cannot believe that we are going to agree to pay 25 percent of the cost when we are having so much difficulty injecting fiscal discipline into the existing foreign aid bureaucracy which Senator HELMS has been trying to change for years. Why should we pay such a grossly disproportionate percentage when Russia, who has the world's largest stockpile, pays 5.6 percent—while we pay the 25 percent?

It is estimated that somewhere between 3,000 and 8,000 companies, perhaps more, will be affected by this treaty—3,000 to 8,000 U.S. companies. The treaty creates a massive program of reporting requirements for companies, companies that produce or use regulated chemicals.

I would ask my colleagues, do you really think the rogue nations, the North Koreas, the Libyas, the Irans, or the Iraqs, and others, are going to be subject to this? Do you really think they care that we are harassing our own companies? They are probably getting a good laugh out of it, Mr. President.

The individual companies are required to assume all costs associated with this compliance, including filings,

escort and administration of routine inspections, challenge inspections, and in some circumstances, American businesses may even be required to shut down production during the inspection period. Failure to comply with the regulations could result in a company being fined up to $50,000 per incident—per incident.

The Defense Department has estimated the cost imposed on a company with a large facility could be as high as $500,000 per inspection, while small businesses should expect inspections to cost between $10,000 and $20,000, all on U.S. businesses on something that does not ban chemical weapons in other countries.

Each international inspection team will be accompanied by representatives of the U.S. Government. According to the administration, it is possible the representatives of the Environmental Protection Agency and OSHA could also serve as escorts to come into your business and have a good look at what we you are doing—maybe something very personal, very private, something you would not want your competitors to have. But under the treaty, the EPA can walk right in, have access to the whole facility, perhaps even take a few samples, a few products. Who knows—take some records.

It is clear, Mr. President, that this treaty and the accompanying implementing legislation that the administration has requested represents a massive, unfunded mandate on U.S. businesses. It is staggering. I cannot believe that this Senate is prepared to do this injustice to businesses here in America and, frankly, injustice to ourselves as a nation. At a time when your constituents are crying out for relief from onerous and burdensome regulations, here we go again. The problem is, other nations who get to inspect our facilities have a lot more to gain than we do by inspecting theirs. The limited military-related intelligence that we may gain is far outweighed by the industrial and commercial intelligence that other nations will derive from our companies. That is why nations like Iran are signing on to this treaty, because they want that information. They will have access to that information, if not directly, certainly indirectly even if they are not one of the inspectors.

Most chemical manufacturers have not considered the effect of this treaty. Frankly, I am disappointed in some of those manufacturers because they have not thought it through. But they will be back, Mr. President. If we pass this, they will be back and they will be back with tears in their eyes because they are going to be very, very sorry that they supported this treaty.

In fact, I know of one example where an individual called my office purporting to represent the CMA in support of the treaty. When questioned on the details of the treaty and the implications for U.S. businesses, the individual became frustrated, claimed ignorance, and stated that the CMA told him to make the calls. He admitted not knowing much about the treaty and quickly ended the call. That is pretty sad, Mr. President.

If that is the kind of expertise being brought to bear in this lobbying campaign we are faced with, I think it raises more serious questions as to the merit and true nature of this endorsement by CMA.

Additionally, while CMA's support is an important factor to consider, it is important to recognize that CMA does not even represent a majority of the businesses affected by the treaty. According to the Arms Control and Disarmament Agency, 60 percent of the companies affected by the treaty are not CMA members.

In fact, most of these non-CMA companies are smaller businesses who are most likely to be harmed by the increased regulatory burden. They have the most to lose. Yet, they are the ones that are overlooked by the treaty's proponents.

Mr. President, since last fall, when the Clinton administration abruptly requested that the Senate defer consideration of the treaty, I have worked very closely with my colleagues in the Senate, including Senator KYL and Senator HELMS and others. I have attended numerous meetings with the President's National Security Adviser to explore possible conditions to protect U.S. national security, and, to their credit, the administration and others did work hard to address many of those concerns, and many have been addressed. But there are still some that I just cannot, in good faith, allow to go unchallenged.

In the end, we are not able to agree on all of these issues. That is the nature of democracy. We discuss issues, debate policy, find common ground, and compromise where we can. We compromised 28 times.

It is important to understand, though, that reasonable people can and do disagree on the merits of this treaty. I want to make it very clear that I have no problem with any of my colleagues in terms of how they arrived at their votes. That is their vote, and I respect that, I recognize that. In fact, it is healthy. While I strongly oppose this treaty, I don't impugn anyone's motives or character for taking an opposing viewpoint. Having said that, it is regrettable that those of us deeply troubled by the lack of participation in this treaty by Iran, Syria, Libya, and North Korea, and by the inherent unverifiability of the treaty, by the fact that nations such as Iran will gain access to sensitive data on our chemical defenses. Now, people have said that is not going to happen. Well, we will see. If this treaty passes, we will see, because they can be part of the inspection team and can have access to that information.

Anyway, we are accused of being somehow in favor of chemical weapons because we take this position. It seems that when those of us who are conservatives want to stand by our principles, we are "crazy people" or something. But when you are liberal and you stand by your principles, you are thoughtful and considerate and compassionate. Well, maybe I am missing something somewhere.

It is very easy for the media and the advocates of the treaty to demagog this issue. Some in the media have demagoged it. Some in the media in my own State are demagoging me and the treaty. That is their prerogative. But they are not here on the Senate floor—I am. Some in the media in my State may not like that fact, but I am here as an elected representative for the State of New Hampshire. I am sworn to uphold the Constitution and to defend the national security interests of the United States. Yes, if there is a treaty violating those, I am going to be opposed to it.

While I wholeheartedly support the objective of banning chemical weapons, this doesn't ban chemical weapons. If somebody can stand up here and tell me how we are going to get access to all of Iraq and be certain that we are not going to have chemical weapons there, and all of Libya and North Korea, and can prove that to me, I will support the treaty. That is why we have this amendment, this provision on rogue nations. I don't believe this requires that the Senate rubber stamp any treaty dealing with chemical weapons. We have some very respected people, including four former Secretaries of Defense—that was testified to here before—who oppose this treaty.

In the medical world, the wrong medicine can kill a patient even if it is prescribed with the best of intentions. The same holds true with national security. I have no doubt that the advocates of CWC believe that it will cure the plague of chemical weapons. But that is the wrong medicine and it won't work.

I want to conclude my remarks by summarizing some of the more important arguments against this treaty.

First, it is not global.

Second, it is not effectively verifiable.

Third, there are no technical means to detect undeclared stockpiles of chemical agents or weapons.

Many of those who have signed the treaty are either unlikely to ratify it or to comply. Does anybody really believe that Iran will be a responsible party to this treaty? When is the last time we had access to all of the countryside in Iran and all of the industry and buildings in Iran? Why should we believe that this treaty is going to make us do that?

Article X of the treaty will require us to share detailed information on our own chemical weapons defenses with all other signatories to the treaty, good and bad signatories to the treaty, friends and enemies.

Thousands of U.S. businesses, many of them vulnerable small businesses, will be exposed to costly annual reporting requirements that they can't afford. Direct costs to U.S. industry are estimated to be over $200 million a year.

It goes on and on and on, Mr. President. It is just incredible.

Challenge inspections, which basically you could not do under our Constitution, are unlimited in number and may violate the fourth amendment, which guarantees the rights of individuals and their property against unreasonable search and seizure.

Mr. President, it is clear that this treaty falls short of achieving its objectives and its goals. In fact, it doesn't even come close. As we will see later in the classified session, the stakes are high. We have little to gain and a great deal to lose.

I urge my colleagues to reject this treaty. I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that Jeff Severs be given the privilege of the floor for this day.

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

Mr. LEVIN. Mr. President, I yield 15 minutes to the Senator from Alaska.

Mr. STEVENS. Mr. President, I have been involved with the chemical weapons debate and negotiations for a convention like this since its beginning. During the Reagan administration, at the suggestion of Ambassador John Tower, former Senator John Tower, I spent a month in Geneva during an August recess auditing the beginnings of the negotiations that led up to this Chemical Weapons Convention. John Tower even loaned me his home in Geneva to live in during that period. He and I agreed that negotiating a satisfactory chemical weapons treaty was an objective that had to be achieved, because we shared the feeling that the world was becoming a very dangerous place to live in because of chemical and biological warfare developments. We felt the United States needed to show leadership in reducing some of the dangers whenever possible.

This convention before the Senate could be improved. The START treaties could have been improved. However, under those treaties, the United States and Russia will significantly reduce their numbers of nuclear warheads and reduce the risk of nuclear war. The Conventional Armed Forces in Europe Treaty could have been improved. Yet, today we no longer have Russian and NATO forces bristling with tanks, cannons, and fighter aircraft facing each other across the border in numbers that reminded many of Armageddon.

The Chemical Weapons Convention does move the world toward a goal of bringing order and accountability to the production and transportation of weapons of mass destruction. This is a convention that has required the negotiating concurrence of 74 countries. I will never forget sitting around those rooms in Geneva while we waited for the representatives of the various countries to state their positions.

To require this convention to be perfect asks the impossible. To expect it to be an effective tool in controlling chemical weapons is reasonable. This convention does provide an inspection regime that will allow our inspectors to monitor potential chemical weapons production and transportation more effectively than without the convention. And protections are built into the convention so that U.S. companies producing chemicals are not going to have their manufacturing processes compromised, and, obviously, we do not amend the Constitution of the United States by approving this convention.

For me, this convention enhances the security of our forces deployed abroad, as well as throughout our whole Nation. The Joint Chiefs of Staff support the Chemical Weapons Convention. Generals Colin Powell and Norman Schwarzkopf support the convention. Former Secretary of State Jim Baker and former National Security Adviser Brent Scowcroft support this convention. Former CIA Directors, Jim Woolsey, Stansfield Turner, and John Deutch, support this convention. I could go on and on with the list, Mr. President.

But, to me, it is not the former or present officials that should have an impact on this Senate. It is the men and women in uniform. They are in harm's way. They know now that many of their predecessors who served us in the Persian Gulf war, men and women there in uniform, were exposed to some type of a chemical weapon in Iraq. It is for them that I speak, because I think, universally, they are now worried about what this Congress is going to do, or not do, in trying to find some process of protecting them against chemical and biological warfare.

In its essence, I believe that the United States has a responsibility for world leadership. This leadership is more graphically demonstrated in this legislative body than anywhere I know, because passage of the resolution of ratification will show our leadership in the effort to contain chemical weapons, just as Senate support for START I showed the United States' commitment to nuclear weapons reduction.

I encourage the Senate to vote in favor of this resolution of ratification and support the Chemical Weapons Convention as it was presented to us.

I ask unanimous consent that two articles from today's papers be printed in the RECORD. One article is by Samuel Berger, in the Washington Times, entitled "The CWC Imperative"; the other is by Gen. Thomas McInerney and Stanley Weiss, in the Hill newspaper.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, April 23, 1997]

THE CWC IMPERATIVE

(By Samuel R. Berger)

Tomorrow, the Senate will vote on the Chemical Weapons Convention. After years of international negotiation and domestic debate, the Senate faces a clear choice; we can continue to lead the widening international commitment to begin banishing poison gas from the earth and head the effort to make it work. Or we can walk away from a treaty we helped write, deny our soldiers and citizens its benefits, expose our companies to its penalties, and put America on the same side as pariah nations like Libya and Iraq.

This treaty will take effect next week—with or without us. That's why the real test of the Chemical Weapons Convention is not whether it's perfect, but whether we will be better off inside or outside it. By that basic measure, this treaty is overwhelmingly in our national interest.

First, this treaty will help protect our soldiers by requiring other countries to do what we decided to do years ago—get rid of chemical weapons. The treaty will also make it harder for rogue states and terrorists to get or make chemical weapons. By eliminating existing stockpiles, it will remove the single largest source of weapons that they could steal or buy on the black market. By imposing new controls on the transfer of dangerous chemicals, it will help put the raw ingredients for such weapons further out of reach.

Finally, by giving us new tools for verification like short-notice, on-site inspections, creating a global intelligence network, and strengthening the authority of our own law enforcement, this treaty will make it easier for us to prevent and punish those who seek to break its rules.

Two and half months ago, President Clinton and Senate Majority Leader Trent Lott established a process to work through the concerns of some senators about the treaty. As a result of this effort, and negotiations led by Sen. Jessie Helms and Sen. Joe Biden, we have reached agreement on 28 conditions that will be included in the treaty's resolution of ratification. Among them are binding commitments to maintain strong defenses against chemical attack; allow the use of riot control agents like tear gas in a wide range of military and law enforcement situations; and require search warrants for any involuntary inspections of an American business. These conditions resolve almost all the issues that have been raised about this treaty.

Almost, but not all. Opponents insist on a handful of additional conditions, each of which would make it impossible for us to participate in this treaty. One would have us wait to join until Russia does—giving cover to hard-liners in Russia who want to hold on to their weapons. Another would have us wait until rogue states like Iraq become members—delaying our chance to use the treaty's tools against these international outlaws and giving them a veto over our national security. Another would impose an

unrealistically high standard of verification—and risk our ability to protect our troops by using the treaty's already tough provisions to detect cheating that is militarily significant.

Two other killer conditions would require us to re-open negotiations on the treaty. First, some critics mistakenly believe that the treaty requires the United States to provide advanced chemical weapons defenses to rogue states. In fact, only countries that have joined the CWC, renounced chemical weapons and destroyed their stockpiles can request assistance—and then, only if they are threatened with chemical weapons by a non-party. President Clinton has committed to the Senate that if a country of concern such as Cuba or Iran should meet the strict conditions for aid, the United States will restrict our assistance to emergency medical supplies—and to use our influence as member of the CWC to prevent other states from transferring equipment that could harm our national security.

Second, some opponents misread treaty language to conclude that the CWC would somehow facilitate their spread. President Clinton has made it clear we reject this far-fetched interpretation. He has committed to maintain strict U.S. and multilateral export controls on certain dangerous chemicals and obtained the same assurance from our allies.

If the Senate approves any of these "killer conditions," it will mean foregoing this treaty's clear costs. We will be denied use of the treaty's tools against rogue states and terrorists. We will lose the ability to enforce the rules we helped make. We will subject our chemical companies to trade restrictions that could cost them hundreds of millions of dollars in sales. And we will send a clear signal of retreat that will undermine our leadership to stop the spread of weapons of mass destruction.

That must not be allowed to happen. While the Convention is not a panacea, it represents a real opportunity to strengthen the global fight against the threat that no one nation can meet on its own. That is why president and legislators from both parties and our military leaders have made U.S. approval of the Convention their common cause. Negotiated under President Reagan and signed under President Bush, the treaty has broad, bipartisan support that includes every chairman of the Joint Chiefs of Staff for the past 20 years and the overwhelming majority of our veterans, chemical manufacturers and arms control experts. As Secretary of State Madeleine Albright has said, this treaty was "made in America." It is right for America, and now, at last, it must be ratified in America.

[From the Hill, April 23, 1997]

CHEMICAL WEAPONS PACT: LET'S MAKE A DEAL

(By Thomas G. McInerney and Stanley A. Weiss)

On one side is President Clinton. He wants the Senate to ratify the Chemical Weapons Convention (CWC). This model agreement, which bands the production and use of chemical weapons, is supported by an overwhelming majority of Americans, including a "Who's Who" of former officials and military leaders, and has been signed by most of the civilized world.

On the other side is Sen. Jesse Helms (R-N.C.). The Foreign Relations Committee chairman wants to reorganize the State Department, and threatened to keep the CWC bottled up in his committee until this was agreed upon.

Mr. President, Sen. Helms. It's time to make a deal!

Both of them and, more importantly, the American people would come out winners if the Senate votes to ratify the CWC, and the State Department streamlines its operations. Here are three ways to improve the business of diplomacy:

First, cut back on assistant secretaries. The State Department currently houses 19 assistant secretaries focusing on certain regions (East Asia) or functional areas (human rights). Compare this to the Department of Defense where nine assistant secretaries help oversee a budget 10 times larger than the State Department's program budget. The system has evolved into an unwieldy bureaucratic morass. The practical effect of 19 assistant secretaries is overlap and poor coordination.

Second, improve coordination and eliminate layers in foreign aid programs. Here again, a hodgepodge of well-intentioned programs operates with little oversight and coordination. The details should be left to careful negotiation between the State Department and Congress. But, the goal should be to reduce bureaucracies, establish clear priorities, and put these aid programs more closely in the service of our overall foreign policy goals.

Finally, start running the State Department in a more business-like manner. State Department officials rightly tout their important role in supporting American businesses overseas. But as part of this effort, they ought to get their own house in order.

The required management reforms are no secret. The General Accounting Office (GAO), The National Performance Review, and other studies have all reached similar conclusions. Closing unnecessary overseas posts, outsourcing administrative support functions, and rethinking overseas staff structure can save money and improve performance.

Maintaining the status quo is impossible. The GAO estimates that simply maintaining current functions and personnel will require a 22 percent increase in State Department budgets by the year 2000—an unlikely prospect in today's budget environment.

Despite the clear need for action, the State Department management continues to postpone the inevitable. A well-conceived strategy for reconstructing the department does not exist, and Helms is right to demand action.

In return, the Senate should ratify the Chemical Weapons Convention. Americans will be safer with the treaty than without it. The CWC combines an arms-control agreement that bans an entire class of weapons of mass destruction and a non-proliferation regime that forbids trade to any nation in noncompliance.

It will help prevent terrorists and pariah states from getting their hands on materials to make chemical weapons, while ensuring that American manufacturers can continue to successfully compete in the global trade of legitimate chemical products.

America is unilaterally destroying its chemical stockpile. The question now is whether it will become party to a convention which will go into effect on April 29, with or without U.S. approval. As retired Gen. Norman Schwarzkopf stated in Senate testimony, "We don't need chemical weapons to fight our future wars. 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."

If the price of getting two-thirds of the Senate to ratify the CWC is improving the way the State Department works, that sounds like a deal we can all live with.

Mr. STEVENS. Mr. President, it is not an easy position for me to be opposed to friends with whom I normally stand shoulder to shoulder. But I believe we must be motivated by what we believe is in the best interest of the country as a whole. I believe if we took a poll of men and women in uniform today, they would say that the No. 1 threat they fear is chemical and biological warfare. I say that we must lead the world in addressing the consequences of production and use of these weapons of mass destruction, just as we led the world in dealing with the consequences of the proliferation of nuclear weapons. Voting for the Chemical Weapons Convention resolution of ratification will make the world a safer place.

Thank you, Mr. President.

Mr. LEVIN. Mr. President, I yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it is interesting. I have been here on the floor listening to this debate for a period of time, and it is almost as if the arguments kind of pass each other in a strange way. I have, also, on the Foreign Relations Committee, been at the hearings. We keep hearing the same mantra repeated with respect to a number of objections, notwithstanding the fact that either the language of the treaty is going to be changed by virtue of agreements made between Senator HELMS and Senator BIDEN and the administration, or the treaty itself addresses those specific arguments. One of the most interesting repetitive arguments is that this is somehow going to be dangerous for the chemical companies. We keep hearing people say that this is going to be terrible for American industry. But American industry has signed off on it. The Senator from Delaware represents many chemical companies. Fifty-six percent of the economy in the State of Delaware is represented by chemical companies. He hasn't heard from them in opposition. Nevertheless, we hear people repeat that.

Now, obviously, this convention, despite its attributes, is not a panacea for the threat of chemical weapons. None of us who are proposing this convention, I think, are suggesting that this is the panacea. But what it does do, Mr. President, is it contributes, on balance, more to the effort to have deterrence, to expose cheaters and to detect chemical weapons production and proliferation of any kind of significant military nature than not having it.

Mr. President, although crude chemical weapons have been around for centuries, poison gas unfortunately came

of age as a tool of warfare in World War I. First chlorine, then phosgene, mustard gas, and lewisite were introduced onto the battlefields of Europe, burning, blistering, and choking unprotected soldiers and civilians alike. Both because with chemical weapons so closely associated with World War I there is a perception they are an anachronistic threat and are therefore of less concern, and because we became accustomed during 40 years of the cold war to living with the threat of a global nuclear Armageddon, some fail to recognize the magnitude of the threat now posed by chemical weapons. This is a terribly serious mistake.

Modern chemical weapons—nerve agents like sarin, soman, tabun, and VX—are so lethal that a dose as small as 15 milligrams can kill a person. Equally as troubling, chemical weapons are the most financially and technically attractive option for a country—or a terrorist—that sets its sights on developing and producing a weapon of mass destruction. The ingredients for chemical weapons are chemicals that are inexpensive and readily available in the marketplace, and the formulae to make nerve and blister agents are well known. It is no coincidence that chemical weapons are known as the poor man's atom bomb. The U.S. intelligence community estimates that more than 20 nations possess chemical weapons or the capability to make them readily. Still other countries are working to acquire a chemical arsenal. Chemical weapons have proliferated far more widely than the two other types of weapons of mass destruction, nuclear and biological weapons. We ignore this threat at our peril. It is this threat that the Chemical Weapons Convention confronts. And the Senate today and tomorrow has an historical opportunity to address and reduce that threat—to our civilian citizens, to our armed forces, and to the entire world—as we perform our constitutional responsibility of advice and consent with respect to the convention.

Our Nation's highest military and intelligence officials repeatedly have stated that while the Chemical Weapons Convention is no panacea for these threats, America will be safer and we will have greater ability to reduce chemical weapons proliferation, and to identify and remove chemical weapons threats, if the United States and a majority of the world's nations ratify this treaty. The number of signatories is up to 161. Seventy-four nations, including the majority of our allies in NATO and the European Union, have already ratified the convention.

The public outcry over the use of chemical weapons in World War I compelled diplomats to begin work to ban these weapons. These post-war efforts fell short of a complete prohibition. They resulted, however, in the 1925 Geneva Protocol that outlaws the use of chemical weapons. Negotiations on a more far-reaching prohibition resumed in 1968, focusing on a treaty that would prohibit the development, production, and stockpiling of chemical weapons as well. In 1969, the United States renounced the first use of chemical weapons and initiated a moratorium on their production that lasted 18 years. Five years later, the Senate gave its advice and consent to ratification of both the Geneva Protocol and the Biological and Toxin Weapons Convention. International negotiation toward a Chemical Weapons Convention, however, made little progress until the United States again took the initiative.

In the 1980's, Saddam Hussein's use of chemical weapons against Iran and against his own Kurdish people horrified the international community. Iraq clearly violated its obligations under the Geneva Protocol, but the international community did nothing to punish Saddam for his outlaw behavior. This failure to enforce the Geneva Protocol was a failure of international political will, not of the treaty itself. America's leaders at that time, including many of us in this Chamber, must bear part of the responsibility for not having insisted that Saddam pay a price for his outrageous behavior. Just like a domestic law, an international agreement, no matter how good, is of little use unless it is enforced.

Iraq's flagrant violation of the Geneva Protocol did, however, serve as a catalyst for the negotiators' attempt to complete the Chemical Weapons Convention. Working from a draft treaty text first introduced by then-Vice President George Bush in 1984, the 39 nations hammering out the treaty in the Conference on Disarmament reached agreements on intrusive and far-reaching verification provisions that were included in the Bush draft text. For example, Vice President Bush proposed on behalf of President Reagan "anytime, anywhere" on-site challenge inspections to deter and catch treaty violators. At the time the concept of challenge inspections was first advanced, no nuclear arms treaty yet included even routine on-site inspections of declared nuclear facilities.

Vice President Bush asked for these tough verification measures for good reason. It is much more difficult to monitor a chemical weapons treaty than a nuclear accord. The capabilities of our national technical means—including intelligence satellites—enable us to track the production and deployment of nuclear weapons in other countries with a considerable degree of confidence. Chemical weapons production, however, cannot be monitored from afar with anywhere near the same level of confidence. Aside from using large government facilities to churn out chemical weapons, a government could coopt a commercial chemical firm into making chemical weapons, or manufacture chemical weapons in a factory purported to be involved in the commercial production of legitimate products. The legitimate chemical industry around the world makes products that are important to modern life. Some of the same chemicals and technologies that this industry employs to manufacture fertilizers, pharmaceuticals, pesticides, herbicides, and countless other products could also be used to make chemical weapons. There are literally thousands of industrial facilities worldwide, and we know all too well from the inspections in Iraq in the aftermath of the 1991 gulf war that a determined rogue proliferator can and will use the industrial sector to mask efforts to develop and produce weapons of mass destruction. For these very reasons, the Reagan administration not only pushed for routine data declarations and inspections of government and industry facilities; it also insisted on these unprecedented challenge inspections.

After George Bush was elected President, the Bush administration took a variety of steps to give impetus to the international negotiations. Perhaps most importantly, in May of 1991, President Bush, without waiting for or depending on completion and ratification of the Chemical Weapons Convention, unilaterally forswore any use of chemical weapons by the United States, even as in-kind retaliation on the battlefield. A year and a half later, as one of the last acts of his Administration, Bush sent Secretary of State Lawrence Eagleburger to Paris in January, 1993 to join more than 130 states in signing the Chemical Weapons Convention. Pushing these negotiations through to a successful conclusion stands as one of the most important foreign policy achievements of the Bush administration. We owe the dedicated negotiators from the Reagan and Bush administrations, most notably Ambassador Stephen Ledogar and Arms Control and Disarmament Agency Director Ronald Lehman, a debt of gratitude for their far-sighted proposals and their persistence at the negotiating table. We owe Presidents Reagan and Bush a debt as well—for their leadership and consistent support of this historic arms control initiative.

The convention that President Bill Clinton presented to the Senate on November 23, 1993, which is before us today, is a feasible and pragmatic treaty. Given the inherent difficulty of curtailing the proliferation of chemical weapons, America's negotiators did not insist on obtaining a flawless pact—an effort that would have been certain to fail. Instead, the U.S. delegation worked closely with our allies in Europe, Japan, Australia, and Canada to create a realistic treaty with verification provisions that offer a significant likelihood of identifying militarily-significant violations and that

will force cheaters to incur higher costs and endure greater inconvenience in order to accumulate a covert chemical weapons stockpile. It is important to note that the convention's negotiators and advocates have never claimed that it provides an ironclad assurance that the world will become and remain free from all chemical weapons. That is an impossible standard to meet, so it should come as no surprise the convention does not meet it. Instead, the convention makes identification of cheaters more likely; it requires all non-cheaters to dispose of all chemical weapons—which, of course, the United States already was unilaterally committed to doing by law; and it will make it more difficult and expensive for cheaters to cheat.

A very important ally in the negotiations leading to the Chemical Weapons Convention was the U.S. chemical industry. It is counterintuitive to think that the chemical industry would participate in a negotiation that would ultimately bring additional regulation, notably data declarations and inspections, upon itself. To its credit, that is exactly what the U.S. chemical industry, and many of its counterparts in other nations, did. For well over a decade, the U.S. chemical industry provided invaluable assistance to the U.S. delegation and all of the negotiators in Geneva, opening their facilities to test verification concepts and proposing workable solutions for how the data declarations and inspections should operate. With the help of the U.S. chemical industry, the CWC emerged with sufficient provisions and restrictions to make trade in chemical weapons materials more visible and more difficult. The convention's inspectors will watch closely over the global industry, guarding against the diversion of commercial chemicals for purposes of weapons proliferation. At the same time, the treaty contains numerous safeguards that enable the industry to protect its confidential business information to its satisfaction, despite claims to the contrary that are made by some treaty opponents.

I want to be clear that despite all of its attributes, the treaty is not a panacea for the threat of chemical weapons. It can't be. But the convention's primary merit is that it will contribute to deterrence, exposure, and detection of chemical weapons proliferation of a militarily significant nature. By requiring the destruction of existing arsenals and making it much more difficult for future adversaries to acquire or increase chemical weapons stocks, the CWC greatly reduces the prospect that U.S. troops will encounter chemical weapons on the battlefield. Following in our footsteps as we move to unilaterally destroy our chemical weapons stockpile, the CWC will begin to level the international playing field by requiring other countries to eliminate their chemical weapons as well.

That is the balance. That is the judgment we are called on to make in the Senate.

Is this, as the Senator from Alaska was just saying, in the interest of our country to protect our troops and the long-term interests of our Nation? I believe this convention makes identification of cheaters more likely. It requires all noncheaters to dispose of all chemical weapons, something we can't do today. And, of course, we have already unilaterally decided that we are going to get rid of all of our chemical weapons.

So here we are going down the road of getting rid of all of our chemical weapons, and here you have finally some form of legal structure that will hold other nations accountable.

Clearly the United States must never be complacent about the threat of adversary nations or terrorists armed with chemical weapons.

I respectfully suggest that nothing in this convention and none of those of us who advocate this convention begs complacency.

The convention's critics claim that the treaty will lull us into a false sense of security, resulting in a weakening of our defenses. To the contrary, the convention stipulates that each of its member nations is allowed to maintain defensive programs to develop and test antidotes, gas masks, and other protective gear and to train its troops in how to use them.

So it is really a question of us. I mean that there is nothing in the treaty that lulls us to sleep. The treaty specifically allows us to have defenses. And if we are, indeed, concerned about it, as we ought to be, we will have those defenses, precisely as this administration is offering us with an additional $225 million of expenditure this year.

So how can you continually come to the floor and say, "Oh, my God, this is going to lull us to sleep" when the administration is providing an additional $225 million?

It is our responsibility as elected officials to ensure that we maintain a robust U.S. chemical weapons defense program. To do less would be an injustice to our troops, a threat to our security, and a failure on our part to exercise fully our rights under this treaty. One of the 28 conditions to the treaty negotiated by Senators HELMS and BIDEN, and agreed to by the administration, condition 11, explicitly states this determination, and requires the Secretary of Defense to ensure that U.S. forces are capable of carrying out required military missions regardless of any foreign threat or use of chemical weapons.

The Pentagon's view of the convention is unambiguous. In his testimony, Chairman of the Joint Chiefs of Staff Gen. John Shalikashvili stated:

From a military perspective, the Chemical Weapons Convention is clearly in our national interest. The convention's advantages outweigh its shortcomings. The United States and all other CW-capable state parties incur the same obligation to destroy their chemical weapons stockpiles . . . if we do not join and walk away from the CWC an awful lot of people will probably walk away from it as well, and our influence on the rogue states will only decrease."

So here you have the general of our Joint Chiefs of Staff, the Chairman, coming before us and saying, indeed, the problem of the rogue states is not passing the convention. The problem is not having a convention because, if you do not have a convention, you don't have the kind of legal structure and inspection and tracking and accountability that help put pressure on those rogue states and limit the access of the rogue states to the materials with which they make chemical weapons.

The truth is that until the convention enters into force, the actions of any nation, signatory or not, to manufacture or to stockpile chemical weapons will be objectionable but it won't be illegal. Mr. President, it won't be illegal. And it is very hard for this Senator to understand how, against the regimen that we have for inspection—against the intrusiveness that we are acquiring that we don't have today, and measured by the level of destruction of existing stockpiles that is required, the people who today are under no obligation whatsoever to destroy those stockpiles—you could be better off without it against those who have it is really very, very difficult to understand.

General Shalikashvili's last point alludes to an argument often made by the treaty's opponents, who are quick to point out that not all of the countries believed to have chemical weapons will join. Indeed, that is true. Libya, Syria, Iraq, and North Korea have not signed the convention, but three-quarters of the nations on the intelligence community's list of probable proliferators have signed.

The truth is that until the convention enters into force, the actions of any nation—signatory or not—to manufacture or stockpile chemical weapons will be objectionable, but not illegal under any international law or agreement. Some colleagues in this Chamber suggest we defer United States ratification until after Libya, Syria, Iraq, and North Korea have joined. To them I would respond that failure to ratify gains us absolutely nothing with respect to those rogue states. We are in no way aided in meeting our intelligence and military obligations regarding those nations and their chemical weapons activities by failing to ratify the CWC; conversely, we are in no way impeded, and in fact are assisted, in meeting those obligations by ratification. Rather, I agree with the Chairman of the Joint Chiefs of Staff on this matter: We increase our leverage against these hold-out states by

ratifying the Convention. We also make it more difficult for those holdouts to obtain materials they can use in their chemical weapons programs.

Some opponents of the CWC, suggest that it is fatally flawed because adherence to or violation of its requirements cannot be verified.

We keep hearing this. It is interesting. At the hearings I kept hearing two arguments coming out from the people who said you can't verify it. They say it is too intrusive, that we will give away all of the trade secrets of the businesses, so we can't allow obtrusive verification. They object to it because they think it is going to prevent business from conducting its business. And they go to the other side of the coin, and say, "If we get more intrusive, we are going to be verifying sufficiently but then you lose on the other side." You can't have it both ways. Either it is a balanced effort at verification and at the level of intrusiveness, which is why the chemical companies support this treaty.

Mr. President, the fact is that the very people who have argued for that intrusiveness—the Reagan administration, and most of the principal critics who are making that argument today —are the very people who insisted that the challenge inspections would be essential to the integrity of this convention.

Ironically, the handful of principal critics making this argument served in the Reagan administration and, fortunately, insisted that challenge inspections would be essential to the CWC's integrity. Virtually every inspection provision that the Reagan administration proposed was included in the treaty text when the negotiations concluded in 1992. Their proposals having been accepted, these critics now want to raise the bar even higher.

The CWC's verification provisions will put inspectors on the ground with sensitive equipment and the right to review records, ask questions, go to any part of a facility, and take and analyze samples. These powerful inspection tools are needed to get the job done, and it would be sheer folly for the Senate to deprive the U.S. intelligence community of the information that these inspections will provide. According to former Director of Central Intelligence James Woolsey:

> What the Chemical Weapons Convention provides the intelligence community is a new tool to add to our collection tool kit. It is an instrument with broad applicability, which can help resolve a wide variety of problems. Moreover, it is a universal tool which can be used by diplomats and politicians, as well as intelligence specialists, to further a common goal: elimination of the threat of chemical weapons.

Another argument used by critics of the treaty is that Russia does not comply with other arms control treaties and that more of the same can be expected with the CWC. Reports from whistleblowers who worked in the Soviet chemical weapons production complex indicate that in the late 1980's and on into the 1990's, the Soviet Union was developing and testing a new generation of nerve agents. More recent reports suggest chemical weapons research, if not limited production, continues. Russia has declared a stockpile of 40,000 metric tons of chemical weapons—the world's largest—but reports indicate that even these numbers may be incorrectly low.

Mr. President, to the extent these reports of continuing Russian chemical weapons activity are true, I join treaty critics —and, I confidently expect—all Senators in abhoring this Russian activity. I take second place to no Senator in wanting to use all capability at the disposal of the United States to obtain cessation of those activities, and destruction of all Russian chemical weapons. But treaty opponents seem to have stepped through the lookingglass in Alice in Wonderland. Simply insisting that Russia tell us the truth is no way to get the bottom of this situation. Refusing to ratify the CWC because we are piqued at their behavior is a classic example of what the old cliche refers to as "cutting off one's nose to spite one's face."

The United States greatly increases its leverage by ratifying the CWC, which will put pressure on Russia to follow suit. When Senate debate of the CWC was scheduled in the fall of 1996, it became evident that Moscow was feeling the heat of a pending Senate vote on the CWC. Suddenly, Russian officials backpedaled from a 1990 bilateral destruction agreement, which had not yet entered into force, and stated the CWC's activation should be delayed until the bilateral agreement was underway. This strategy belies Moscow's eagerness to postpone U.S. ratification. I, for one, am not buying it. The longer we wait to ratify the CWC, the more breathing room Moscow has. The time has long since passed to put some real pressure on Russia. Senate ratification of the CWC will do just that.

Another of the treaty opponents' claims is that the treaty requires the United States to share chemical and chemical weapons defense technologies and capabilities with even those party States that are rogue nations or adversaries of our Nation. Some claim that we would be forced to remove our current export controls applicable to chemicals with respect to all other parties to the CWC. Articles X and XI of the Convention are frequently referenced in this context. What is going on here, Mr. President, is very regrettable. The black and white language of the convention itself contradicts that view. And if the convention itself were not sufficiently clear in enabling the United States to refuse to provide any technology or other information or data that could be misused by rogue nations or adversaries, several of the 28 conditions to which bipartisan agreement has been reached directly address these concerns and should lay them to rest in all minds.

Condition 7 requires the President to certify before the ratification documents are deposited that the CWC will in no way weaken the Australia Group of nations, of which the United States is a participant, that has established a cooperative export control regime, and that every single nation that participates in the Australia Group must concur that there is no CWC requirement that would weaken the Group's export controls. Then, annually, certification is required to the Congress that the Group's controls have not been weakened. Further, the condition requires the President to block any attempt within the Australia Group to change the Group's view of its obligations under the CWC.

Condition 16 requires the President to notify Congress if he ever determines the Convention's secretariat, the Organization for the Prohibition of Chemical Weapons, has willfully divulged confidential business information that results in a financial loss or damage to U.S. company, and to withhold half the United States' annual assessment toward the OPCW's expenses if such a breach occurs and the OPCW does not waive immunity for prosecution of any OPCW official involved in the breach, or if the OPCW refuses to establish an investigatory commission to investigate the breach.

Condition 15 requires the United States not to contribute to the voluntary fund the CWC establishes for providing chemical weapons defense assistance to other parties to the treaty, and, with regard to the CWC requirement for all treaty parties to assist other party nations who have been attacked with chemicals or are threatened with such an attack, the same condition limits U.S. assistance to those nations determined to be adversaries to medical antidotes and treatments.

Perhaps the least credible argument raised by the CWC's opponents is that this treaty would place unreasonable burdens on America's chemical industry. It would seem that those making this argument have not been listening to what the chemical industry itself has been saying for the last two decades. The chemical industry's reasons for supporting the convention are not altogether altruistic, but they are imminently logical. First and foremost, the chemical industry seeks to disassociate itself from the odious practice of making chemical weapons. Equally important, the U.S. industry long ago decided that the Chemical Weapons Convention would be good for business. The convention contains automatic economic sanctions that preclude treaty members from trading in controlled

chemicals with states that do not join. The U.S. chemical industry, which is America's largest exporter, views the convention as a way to a more open marketplace. Industry representatives describe their obligations under the treaty as manageable and acceptable; to wit, the CWC will not impose inspections, regulations, intrusions, or costs greater than those already required by other Federal laws and standards.

But it is very important to go beyond the fact that the chemical industry believes the CWC will not impose significantly difficult burdens on its companies—and look closely at the critical fact that U.S. failure to ratify will result in tremendous financial and market share losses—grave in the near term and likely even worse in the longer term—for the U.S. chemical industry. In a letter dated August 29, 1996, the CEO's of 53 of America's most prominent chemical companies bluntly stated: "Our industry's status as the world's preferred supplier of chemical products may be jeopardized if the United States does not ratify the convention." The American chemical industry would be marked as unreliable and unjustly associated with chemical weapons proliferation. If the resolution of ratification of the CWC were to be defeated, it would cost the U.S. chemical industry significant portion of its $60 billion export business—many in the industry have agreed on an estimate of $600 million a year—and result in the loss of thousands of good-paying American jobs.

Under the terms of the CWC, some 2,000 U.S. industry facilities—not companies—will be affected by the treaty. Of that group, some 1,800 will be asked to fill out brief data declaration forms and the remaining 200 are likely to undergo inspections. Assertions that the neighborhood "Mom and Pop" dry cleaners, cosmetics firms, and breweries will be involved in this are wildly inaccurate.

In addition, although the industry's representatives explained patiently to Senators that the CWC's onsite verification and inspection procedures will not violate a U.S. company's constitutional protection against undue search or seizure, there is included in the 28 agreed conditions condition 28 that requires the United States to obtain a criminal search warrant in the case of any challenge inspection of a U.S. facility to which the facility does not give its consent, and to obtain an administrative search warrant from a U.S. magistrate judge in the case of any routine inspection of a U.S. facility to which the facility does not give its consent.

The U.S. chemical industry led by the Chemical Manufacturers Association, the Synthetic Organic Chemical Manufacturers Association, and the Pharmaceutical Research and Manufacturers of America have repeatedly and unequivocally requested that the Senate approve the resolution of ratification and pass its associated implementing legislation. Industry's support of this treaty should not be questioned, it should be applauded.

It's suprising to see nonindustry people shouting industry concern when the industry itself was intimately involved in developing the convention and the proposed implementation legislation and is urging the Senate to approve the resolution of ratification. The CEO's or other senior executives of seven major chemical firms with significant operations in my home State of Massachusetts are among those who have repeatedly urged the Senate to approve the resolution of ratification. Frankly, in my judgment, the statements of these executives concerning the effects this convention will have on their businesses are more credible than the contradictory statements of the opponents of the CWC.

Also among the arguments against the convention used by its critics is the assertion that the CWC will cost the American taxpayers too much money. On the contrary, the U.S. share of the CWC's monitoring and inspection regime, approximately $20 million annually, is far less than the $75 million annual cost to store America's chemical weapons. This $20 million of support for the international inspection agency is minuscule in comparison to the amounts we spend for U.S. defenses. This is a small price to pay to institute and maintain an international mechanism that will dramatically reduce the chemical weapons threat that faces U.S. service men and women and establish an international norm for national behavior which is so apparently in the interests of this Nation and, indeed, all the world's people. And, lest the estimates of the costs of U.S. participation prove to be low, included in the 28 agreed conditions is a condition that limits the U.S. annual contribution to no more than $25 million a year, to be adjusted every third year based on changes in the Consumer Price Index.

The United States led the international community throughout the negotiation of the Chemical Weapons Convention. Three administrations—two Republican and one Democratic—have labored to develop and place before the Senate a carefully crafted instrument that will increase the safety and security of U.S. citizens and armed forces and will do so at very reasonable costs to taxpayers, companies that make and use legitimate chemicals, and American consumers. Former Presidents Ford, Carter, and Bush have spoken out strongly in favor of ratification. Today 1996 Republican Presidential nominee and former Senate Majority Leader Robert Dole announced his support for the CWC coupled with the 28 conditions to which bipartisan agreement has been secured.

Rarely does one see a situation in which it is more important to apply the admonition that we would be wise not to let the perfect become the enemy of the good. Perfect security against chemical weapons is unattainable. I have great hopes that wise Senators will not permit a group of Senators who will not be satisfied by the greatest achievable increase in our security, and many of whom have a basic objection to any international arms control treaty to scuttle a carefully engineered agreement that our military leaders, our intelligence community senior executives, former Presidents of both parties, President Clinton, and 1996 Presidential nominee Dole agree will make all Americans and, indeed, the entire world safer and more secure from chemical weapons.

In closing, I want to commend those who have labored diligently to bring the Senate to this point. Former Senate Foreign Relations Committee Chairman RICHARD LUGAR, with the assistance of his able staff, has done yeoman service and again demonstrated his capacity as a leader and statesman. Senator JOE BIDEN, the ranking Democratic member of the Foreign Relations Committee, has labored, also with the help of his staff, to bring this treaty before the Senate. Senator CARL LEVIN, ranking Democrat on the Armed Services Committee, and Senate Democratic Leader TOM DASCHLE, each knowledgeable and dedicated, have made considerable contributions to this effort and to the debate. Majority Leader TRENT LOTT's leadership has permitted negotiation of 28 conditions designed to reassure those who in good faith had questions and concerns about various aspects of the treaty. I compliment and thank all of them.

Mr. President the compelling logic of this convention and the breadth and depth of support for it should produce an overwhelming vote to approve the resolution of ratification. I have great hope that the Senate will demonstrate its ability by taking this important step of ratifying this treaty. I urge my colleagues to vote for the resolution.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent, under the new rules governing access to the floor, that Scott Bunton of my staff, be permitted access to the Senate floor as long as the Chemical Weapons Convention is being debated.

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

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I now invite the distinguished Senator from Oklahoma [Mr. INHOFE] to take the floor to make whatever comments he may require.

Mr. INHOFE. I thank the chairman.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Thank you, Mr. President.

First of all, let me say that there have been a lot of charges made back and forth. And certainly I don't question the sincerity of any Senators who have spoken on the floor, nor any positions they have taken, nor do I question their motives. They clearly think that they are right and that I am wrong. I think I am right. And the right position is not to ratify the Chemical Weapons Convention.

The distinguished Senator from Massachusetts talked about "lulling" people into a false sense of security. There is a very interesting editorial in the Wall Street Journal on that subject—that people are going to believe that something is going to be done with this, that it is going to eliminate or dramatically reduce chemical weapons. We have testimony from very distinguished, well-known, former Secretaries of Defense—four of them—who say that this, in fact, could increase the proliferation of chemical weapons around the world, and particularly in the area of rogue nations.

Let me just address one other thing because my beloved friend, Bob Dole, came out and changed the position that he had previously had. I certainly don't question his sincerity. But in his letter he said that the conditions or the concerns that he had previously had been met.

I happened to stumble onto the letter that was dated September 11, 1996, from Bob Dole to TRENT LOTT. I will read the last of one paragraph. He says, "I have three concerns. First, effective verification. Do we have confidence that our intelligence will detect violations? Second, real reductions. In this case down to zero."

He is putting an expectation of reducing the use of chemical weapons "down to zero."

"Third, that it will truly be a global treaty."

Mr. President, none of these three have been met—not one of these three conditions; certainly on verification. There is not one person who has stepped onto the floor of this Senate and said that this is a verifiable treaty. Nobody claims that it is. It is not verifiable. People who give us their word that they are not going to do it. That is fine. We can believe their word. Are we going to believe countries who have not lived up to their other treaties? Certainly not.

In the case of real reductions, "down to zero"—getting one to say there are going to be any real reductions. Certainly not down to zero. Nobody has made that statement.

And will it be truly global? We have talked about the countries that are not a part of this treaty. And there are countries that are not like we are. We are talking about people who murder their own grandchildren, we are talking about Iraq, Syria, Libya, North Korea. So obviously, it is not a global treaty in any sense of the term.

In verifiability, it is kind of interesting. After the Persian Gulf war we set up a very meticulous system of verification within the United Nations that gave the inspectors from the United Nations far greater authority than the inspectors would have under this treaty. Yet we find out that in the midst of all of this that Iraq is making chemical weapons as we speak. If you can't do it with the information that they have, and the ability that they have from the United Nations, certainly it is not something that can happen under this treaty.

I have another concern. Mr. President, it is not just those who have not signed or who have not ratified the treaty. I look at some of the countries that have signed and they may or may not ratify. The distinguished Senator from Arizona, Senator KYL, earlier said that 99 percent of the known chemical weapons are in three countries: United States, China, and Russia. And not one of those countries has ratified this treaty. I doubt very seriously that they are going to ratify this treaty.

So we have all of these conditions that we are talking about that assume that, No. 1, those who are signatories to this treaty are going to ratify it; and, No. 2, the ones that ratify it will do what they have said they will do.

I think it is kind of interesting when you look at Russia, for example. I am not singling them out other than the fact that we have had more treaties with Russia. We have the 1990 Biological Weapons Destruction Treaty; the ABM Treaty that goes all the way back to the 1970's; we have the Strategic Armaments Reduction Treaty, START I; the Conventional Forces in Europe Treaty, the CFE treaty; and the Intermediate Nuclear Forces Treaty. In each one of these cases, the country involved—this country being Russia—has not lived up to the provisions of the treaty. In other words, they ratify a treaty. They are a signatory. Then they ratify, go through that elaborate process, and then they turn around and don't live up to it. They have been found in noncompliance by our State Department—this country—in each one of these five.

You have to ask the question: If Russia ratified five treaties and did not comply with any of the five, why would we expect that they would ratify this and not live up to it? One of the conditions that we have is that the Russians will ratify the treaty prior to the time that we would do it. People are saying oh, no, Russia will ratify but only if we do. I would like to remind my friends in this body that I was one of, I think, three Senators who voted against the START II Treaty and they used the same argument at that time. They said you have to ratify this thing, you have to ratify it before Russia because Russia is not going to ratify it if we do not ratify it. This is 2 years later, and they still have not ratified it. So we are still waiting.

So why will you expect if 2 years ago we passed the START II Treaty—and I think the Senator from North Carolina and I were two of the four votes that were against it—they said they were going to ratify after we did, and they didn't do it—why would they necessarily do it?

This global thing is very significant because here we talk about those who have signed the treaty and those who have ratified the treaty and, quite frankly, I do not care if a lot of those who have to ratify this treaty ratify it. I am not at all concerned about Canada, Costa Rica, the Fiji Islands, Switzerland, Togo, Singapore, Iceland. They are not threats to this country, but there are threats out there.

And a minute ago, someone, the distinguished Senator from Massachusetts, quoted James Woolsey, former CIA Director. It is also James Woolsey who said we know there are somewhere in excess of 25 nations that currently have weapons of mass destruction, either biological, chemical, or nuclear and are working on the vehicle means to deliver those weapons. And so if these countries have them, these are not countries that we are friendly with or think like we do.

I have said on the Senate floor several times in the past that I look back sometimes wistfully to the days of the cold war, Mr. President, when they had two superpowers, the U.S.S.R. and the United States of America. We had an intelligence system that was pretty well informed. We pretty much knew what they had, and they pretty much knew what we had. Even though they were a threat to this Nation, certainly they were a threat and a quantity that could be measured and we could anticipate. Now we have countries like Iraq, and we have people, as I said before, who murder their own grandchildren and we are talking about the Qadhafis, Hafez Assads and those individuals who, I think, are a far greater threat in terms of what is available in technology out there with weapons of mass destruction including what we are addressing today, and that is chemical weapons. So the threat is a very real threat that is out there.

I understand from some of my close friends, Republican friends, that there are some of these conditions that they could either take or leave and are not as concerned about whether Russia ratifies the treaty in advance; they are not really concerned about whether there are no inspectors from terrorist countries. I can't really understand that, but they are concerned understandably about article X. And while everyone has put their own interpretation on article X, and instead of putting an interpretation on it let me just

read. I hope that all of America could hear the exact wording of this treaty that we are being asked to endorse and to ratify. Section 3 of article X says:

Each State party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.

Wait a minute now. We are talking about they would be able to look at what our defenses against chemical weapons are, not just what we have, what our technology is, how they might be able to copy our technology.

Moving on to section 5, it says:

The technical secretariat shall establish—

Incidentally, Mr. President, does it bother you, that technical secretariat? I always wondered what happened to sovereignty in this country. We have a group sitting over there someplace; we are not sure who they are going to be, but they are called the technical secretariat—

Not later than 180 days after entry into force of this convention and maintain for the use of any requesting State party a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided by State parties.

Now, I look at this as a sovereignty issue again, because I do not know who these people are, but I do know this, that we have a lot of chemical companies in this country that have not been talked about very much. You talk about the CMA. That is, as I understand it, 192 chemical companies. They are the large ones, but there are somewhere between, it is estimated, 3 and 8,000 companies that would be affected by this treaty. Not all of them are chemical companies but about half of them, so you may be looking at 192 large chemical companies and maybe 4,000 small chemical companies and maybe it would be to their advantage to have very stringent requirements like this that would be a lot easier for large companies to stand behind than small companies.

Finally, Mr. President, I have so much respect for the three former Secretaries of Defense who testified before Senator HELMS' committee, James Schlesinger, Don Rumsfeld, and Cap Weinberger. In fact, I have talked to each one of them, along with Dick Cheney, who would have been there to testify, but he was unable to make that schedule. But he has sent a letter that has been quoted from several times. These individuals all say essentially the same thing. They say that we are being asked to ratify a treaty that is not verifiable, that is not global, that does not have any effect on those countries that are considered to be our enemies, our adversaries out there. And they are out there, Mr. President, and also even those who say they will ratify and comply have demonstrated over and over again, such as Russia, that they have not complied with previous treaties.

By the way, speaking of Russia, it was interesting; last week in Janes Defense News, I read that the Russians had developed a type of chemical weapon, and they have developed it out of precursors that are not under this treaty. In other words, there are three precursors that they are using that they can develop these weapons with. So they would not be covered by this. I think maybe that is just a coincidence. Maybe there are other countries out there also that are saying all right, if this Chemical Weapons Convention goes in and we intend to comply with the provisions of it, which they probably are not, what can we do to build chemical weapons without using those precursor chemicals? And they are already doing it.

I would like to share lastly something that all four of these former Secretaries of Defense have said. They have said that there is a very good chance being a party to this treaty and ratifying this treaty could increase the proliferation of chemical weapons as opposed to reducing them. I would read one paragraph out of Dick Cheney's letter, and I do not think anyone is more respected than Dick Cheney in these areas.

Indeed, some aspects of the present convention, notably its obligation to share with potential adversaries like Iran chemical manufacturing technology that can be used for military purposes and chemical defensive equipment, threaten to make this accord worse than having no treaty at all. In my judgment, the treaty's article X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the globe.

So I would just say, Mr. President, that there has been a lot of lobbying going on, and I know the President's been very busy. I do not know what kind of deals have been made, but I do know that this is not something that is in the best security interests of the United States. I do sit on the Senate Armed Services Committee. I am the chairman of the readiness subcommittee. We are very much concerned about our State of readiness in terms of how to defend against chemical warfare. We deal with this subject every day. I am on the Intelligence Committee. We talk about this. But none of us on those two committees know about this as people such as Dick Cheney. I agree with them. We cannot afford to take a chance on a flawed treaty that could have the effect of increasing the proliferation of chemical weapons.

I thank the Chair.

Mr. HELMS. Mr. President, I yield myself such time as I may require to thank the Senator for his comment. He is right on target.

I have been around this place quite a while, and I have seen Senators come and go but there is one situation that is endemic to the trade. A lot of Senators can be frightened about threats of 30-second television commercials 2 years hence or 4 years hence. But let me tell you something, every kind of television known to man has been used against me about practically every vote I have cast and I am still here. So I have a little policy. I started it the first time I was sworn in. I stood over there five times now taking an oath to uphold the Constitution and to do my best to defend the best interests of this country just as the Senator has and just as the Senator has talked about.

Now, the media have with one or two rare exceptions totally ignored the appearance of the three former Secretaries of Defense who came before the Foreign Relations Committee. And one of them read the letter that the Senator has just alluded to written by Dick Cheney. I wish all Americans could have heard these three gentlemen and read the letter by Cheney because they would understand that no matter about the 30-second commercials, no matter about the news media—I have had it all thrown at me. You can come to my office and look at the wall and see all the cartoons. Every cartoon that they run I put it up on the wall to remind me that the media do not count if you stand on principles and do what you think is right.

Now, I have an idea satisfactory to myself that a lot of Senators wish they could vote against this treaty but they are wondering about the next election. I think they better stop and wonder about the next generation.

I thank the Senator for the fine remarks that he made. I admire the Senator very much.

Mr. INHOFE. I thank the Senator.

Mr. HELMS. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield 7 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, the people of Oregon have firsthand knowledge of the dangers of chemical weapons. Stored at the chemical weapons depot at Umatilla in the eastern part of my State are millions of pounds of chemical weapons. Mustard gas and nerve gas sit in concrete bunkers, a constant reminder of the need for action.

We see and hear constant news reports about the dangers facing children in eastern Oregon every day those weapons sit in those stockpiles.

There is no place in a civilized society for terror weapons like these, and it is not right to have stockpiles of these weapons that put our children at risk. Passing the Chemical Weapons Convention is the most important vote in this Congress for a safer future for our children. This is a time in my view for the United States to lead rather than to retreat. When Presidents Reagan and Bush negotiated this treaty, they fully understood that U.S.

leadership was needed to complete it. They knew that full U.S. participation was essential for its work.

Not only will failure to ratify this convention put us in the position of being followers on the world's stage but the provisions built into this treaty to isolate and in fact economically punish those nations which refuse to ratify the treaty are going to apply to the United States if the Senate does not ratify this treaty.

In my State, we believe that we prosper from trade, cultural and other exchanges with the rest of the world and that there would be a threat if we failed to ratify this treaty.

If the Senate allows America to become an outlaw nation, the effects would be felt by every farmer, software engineer, timber worker and fisherman who sell the fruits of their labor overseas.

I would like to for just a brief few minutes review the arguments against this treaty. Some say that it represents a loss of sovereignty, but there is no greater threat to our sovereignty than to run away from our role as a world leader. Some say that this treaty would open our essential industries to espionage, but there is no question that the American chemical companies were consulted on this treaty. They worked closely on the key verification issues and there is enormous support, enormous support among those in the chemical industry to approve this treaty.

Finally, there are those who say verification is unworkable because rogue nations will refuse to ratify it. But the fact is that ratification of the treaty gives our country new access to information about the chemical weapons programs of other nations. If we are denied access to this vital intelligence, then we will be forced to spend even more on our own intelligence to track the chemical weapons threat.

The world is watching the Senate now, watching the greatest nation on Earth and hoping that we will lead the way to ridding our planet of these poisons. I urge my colleagues to join across party lines and approve this treaty, because when it is approved, our world will be a safer place.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 633 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. DOMENICI. I ask unanimous consent that Peter Lyons, a legislative fellow working in my office, be granted the privilege of the floor for today and the remainder of the debate on this issue.

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

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe it is crucial to American leadership and to the security of our men and women in the Armed Forces and, indeed, to all of us in America, that the Senate provide its advice and consent to the ratification of the Chemical Weapons Convention so that the United States can join it as an original party.

The security of our men and women in the Armed Forces who someday may face the threat of chemicals, the security of our people who constantly face the threat of terrorists and terrorist states that try to get their hands on chemical weapons, all demand that the Senate join as an original party to this convention and ratify this treaty. To ratify it and to make it real, we have to do so without accepting any of the killer amendments that would render this ratification vote useless.

I say this, and I reached this conclusion as a member of the Armed Services Committee who has listened to our military leaders testify before us, who has read the testimony of these leaders who have said that the ratification of this convention is unequivocally in our national security interest because it will reduce the risk of our military forces encountering chemical weapons on a future battlefield.

In 1985, President Reagan signed a law which has resulted in our unilaterally destroying our stockpile of chemical weapons. This process will be completed in 2004. The destruction of our chemical weapons will take place, whether or not the United States ratifies the convention. We are destroying our chemical weapons. We are doing so because we decided they are no longer militarily useful and they are too expensive to maintain and we have all the capability we need to deter attack and to respond to attack. So that President Reagan, in 1985, proposed and the Congress accepted his proposal that we destroy our chemical weapons. What this convention will do will be to require other nations to do what we are already doing, and that is going to reduce the risk of chemical attacks against our troops and our Nation.

General Shalikashvili, the Chairman of our Joint Chiefs, has had a great deal to say about this treaty. This is what he wrote on April 8. He said that:

> The ratification of the Chemical Weapons Convention by as many nations as possible is in the best interests of the Armed Forces of the United States. The combination [he wrote] of the nonproliferation and disarmament aspects of the convention greatly reduces the likelihood that U.S. forces may encounter chemical weapons in a regional conflict. The protection of the young men and women in our forces, should they have to go in harm's way in the future, is strengthened, not diminished, by the Chemical Weapons Convention.

Then he went on to say:

> We do not need chemical weapons to provide an effective deterrent or to deliver an effective response.

When the Chairman of the Joint Chiefs of Staff, every member—every single member of the Joint Chiefs, and every combatant commander have reached the same conclusion, that the ratification of this treaty is in our national security interests and will reduce the likelihood of our men and women ever facing chemicals in combat, it seems to me we should listen. When they tell us that we are already unilaterally destroying our stockpile of chemical weapons and that what we are doing by joining this convention is being in a position where we will be able to help reduce the risk that others will obtain chemical weapons, we should listen. And when they tell us that they know that this is not perfectly verifiable but that this will reduce the chances that chemical weapons will fall in hands of terrorist states or terrorist organizations or individuals—when our top military leaders tell us that, we should listen.

They have acknowledged what everyone has acknowledged. There is no way to perfectly verify a chemical weapons convention. But what they have also told us is that following their analysis of this treaty, that because of the intense inspection regime which is provided for here, that we will be able to reduce the risk that any militarily significant amount of chemicals will fall into the hands of an opponent or a future opponent. It is not a matter of perfection, they tell us. It is a matter of improving our current position. That sounds like a security bargain to them and it ought to sound like a security bargain to us. Our senior military leaders have a unique perspective on what makes our military stronger or more secure. And they have agreed. They have agreed that this treaty is good for our security. All the Chiefs of Staff, as I have said, the Chairman of the Joint Chiefs and the combatant commanders have urged that we ratify this treaty.

This is the way General Shalikashvili made that point. He said, "I fully support early ratification of the Chemical Weapons Convention and I reflect the views of the Joint Chiefs and the combatant commanders."

The previous Chairman of the Joint Chiefs, General Powell, spoke very forcefully on this issue just last week. He was addressing the Senate Veterans' Affairs Committee on April 17 during a hearing on gulf war illness, but he said this relative to the convention on chemical weapons:

> I think one of the greatest things we can do over the next 2 weeks is to pass the Chemical Weapons Convention treaty. This is a good treaty. It serves our national interest.

That is why it was negotiated beginning in Ronald Reagan's term, and I helped participate [The "I," here, being Colin Powell]—I helped participate in those negotiations as National Security Adviser, and that is why we signed it in the administration of President Bush. And I participated in the development of the treaty during those days as Chairman of the Joint Chiefs of Staff and I supported the treaty then and I support it now.

Then General Powell went on to say the following:

There are some uncertainties associated with the treaty and there are some criticisms of the treaty. I think those criticisms can be answered and dealt with. But we should not overlook the simple fact that, with the treaty, the United States joins over 160 nations in saying to the world that chemical weapons will not be used, will not be made, will not be developed, will not be produced, and we will not share the technology associated with chemical weapons with other nations who are inclined to use them inside or outside the confines of this treaty.

Then he went on to say the following:

Not to participate in this treaty, for us to reject the treaty that we designed, we signed, for us to reject that treaty now because there are rogue states outside that treaty is the equivalent of saying we should not have joined NATO because Russia was not a part of NATO. It's exactly because there are these rogue states that we should join with an alliance of over 160 nations to make a clear international statement that these are rogue nations.

And he concludes:

Not signing the treaty does not make them no longer rogue nations. So I think this is a fine treaty and it is one of the things the Senate can do to start to get a better handle on the use of these weapons of mass destruction and especially chemical weapons.

Mr. President, Secretary Cohen addressed the Chemical Weapons Convention at great length before the Armed Services Committee.

I ask the Chair whether or not I have used up the 10 minutes that I allotted myself?

The PRESIDING OFFICER. The Senator from Michigan has 15 seconds remaining.

Mr. LEVIN. I thank my Chair. I will just yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. LEVIN. Now, Secretary Cohen, our former colleague Bill Cohen, has testified before the Armed Services Committee on this subject. He has filed some lengthy testimony supporting the Chemical Weapons Convention. To summarize what he said, and here again I am quoting:

The Chemical Weapons Convention is both a disarmament and nonproliferation treaty. It is very much in our national security interest because it establishes an international mandate for the destruction of chemical weapons stockpiles, because it prohibits the development, retention, storage, preparations for use, and use of chemical weapons, because it increases the probability of detecting militarily significant violations of the CWC.

And, here he said that:

While no treaty is 100 percent verifiable, the Chemical Weapons Convention contains complementary and overlapping declaration and inspection requirements which increase the probability of detecting militarily significant violations of the convention. While detecting illicit production of small quantities of chemical weapons will be extremely difficult, it is easier to detect large-scale production, filling and stockpiling of chemical weapons over time through declaration, routine inspections, factfinding, consultation and challenge inspection mechanisms. The verification regime should prove effective in providing information on significant chemical weapons programs that would not otherwise be available.

In conclusion, there has been reference to a classified session tomorrow, which will be held relative to advice from the intelligence community.

Relative to this point, I will only say that the Acting Director of Central Intelligence, George Tenet, has said, "The more tools we have at our disposal, the better off we feel we are in our business." And he said that as part of an acknowledgment that we can never guarantee that a power that signs up to this agreement will not cheat. "No regime is foolproof, particularly with regard to these dual-use capabilities. Nothing is going to guarantee success but," George Tenet concluded, "the more tools we have at our disposal, the better off we are in our business."

I also hope that our colleagues will come to that classified session tomorrow. I am very confident that they will conclude, as I have concluded after listening to the intelligence community, that it is very much in our interest, from an intelligence perspective, that we have these tools in our tool kit, and that these additional verification and inspection capabilities are very, very much in our Nation's interest.

This treaty will enter into force on April 29 whether or not we ratify, but our ratification will make a big difference in the effect the treaty has on us and on our leadership in the world. Is it perfect? No, nothing in life is. Is it an improvement to our present position in terms of inspection of other countries? Surely it is, and we should listen to that top uniformed military official, General Shalikashvili, when he tells us our troops are safer, because if we ratify this convention, it is less likely—not certain—but less likely that they will ever face chemical weapons in combat.

Mr. President, I yield the floor, and if my good friend from Rhode Island is ready, I will be happy to yield him 7 minutes. If there is nobody on the other side, I yield 7 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Rhode Island.

Mr. REED. Mr. President, I rise to add my voice to the chorus of support for the ratification of the Chemical Weapons Convention. As a former company commander in the 82d Airborne Division, I have a keen interest in an international diplomatic agreement that will protect soldiers from one of the most terrible perils of war. As a Senator, I believe that the United States has a duty to assume a leadership role in this ambitious, global effort to not only reduce, but eliminate, an entire class of weapons of mass destruction.

U.S. ratification of the Chemical Weapons Convention is a paramount first step in removing the threat of chemical warfare on the battlefield. Soldiers in World War I were the first to know the terror of the release of poison gas. Over 1.3 million soldiers were injured or killed by chlorine and mustard gas during the Great War. This enormous number of casualties led to the negotiation of the Geneva Protocol in 1925 which banned the use of chemical weapons in wartime. Eighty years later, however, young soldiers are still plagued by the dangers of chemical warfare. Many veterans of the Persian Gulf war fight illness and lie awake at night, worrying and wondering, "Was there something in the air?"

But this is not a treaty which will just protect soldiers in a time of armed conflict, it is a treaty which will protect innocent civilians from terrorist attacks. The 1995 Sarin gas attack in a crowded Tokyo subway that killed and injured dozens made this scenario a reality for everyone. It is imperative that we do what is necessary to ensure that such an incident becomes a distant memory rather than a daily fear.

The Chemical Weapons Convention bans the development, production, acquisition, stockpiling, transfer or use of chemical weapons by signatories. It requires the destruction of all chemical weapon stockpiles and production facilities. Parties to the convention must begin to destroy weapons within 1 year and complete the process within 10 years. If we ratify this treaty, we will take an important step toward eliminating the production, storage and use of blister agents, like mustard gas, which destroy exposed skin tissue; of choking agents that inflame the bronchial tubes and lungs and cause asphyxiation; of blood agents that block the circulation of oxygen when inhaled; and of nerve agents that cause the nervous system to overload, resulting in respiratory failure and death. The goal of this treaty is to ensure that these deadly chemicals will never again be dispersed over troops or civilian populations by bombs, rockets, missiles, artillery, mines, grenades or spray.

Chemical weapons are terrifying because they kill quickly, silently, and indiscriminately. Even more disturbing is the fact that their production is easy, cheap and simple to conceal. With a little know-how, a solvent used in pen ink can be converted into mustard gas and a chemical common in

pesticides becomes an ingredient in a deadly nerve agent. It must be acknowledged that eliminating chemical weapons is a herculean task. But the Chemical Weapons Convention, which we are finally considering today, addresses this challenge. This treaty is the most comprehensive arms control agreement ever negotiated. It institutes an extensive and intrusive verification regime which will include both government and civilian facilities. International teams of inspectors will conduct instrument-monitoring as well as routine and random onsite inspections of facilities known to work with chemical agents. Furthermore, it allows challenge inspections, without right of refusal, of sites suspected of producing or storing chemical weapons. The convention also requires export controls and reporting requirements on chemicals that can be used as chemical warfare agents and their precursors. In addition, the treaty establishes the Organization for the Prohibition of Chemical Weapons [OPCW], a permanent body which will oversee the convention's implementation and ensure compliance. The enemy is elusive but 162 signatory countries decided this treaty was the best means of waging war against chemical weapons.

In January 1993, President Bush joined dozens of other nations in Paris and agreed to meet the challenge of eliminating chemical weapons by signing the Chemical Weapons Convention. Now some members of this chamber, members of President Bush's own party, are second-guessing that decision. The problem is that if we drag our feet any longer, the United States will be left behind. April 29, 1997 is not an artificial deadline imposed by a political party. One of the provisions of the treaty is that it enters into force 180 days after the ratification by the 65th country, and in 6 days, on April 29, the 74 nations who have ratified the treaty will begin its implementation. If we do not vote to ratify the Chemical Weapons Convention, we will not stop it. In fact, we will not even become a passive bystander. Instead, we will become the target of the trade restrictions that make this treaty so powerful.

Now, no one can say the Senate has not had ample opportunity to consider this agreement. Thirteen years and two administrations ago, President Reagan proposed this treaty to the United Nations. It was approved by the United Nations in 1992 and President Bush signed the convention weeks before he left office. Several months later, President Clinton presented the CWC to the Senate for consideration. The Committees on Foreign Relations, Armed Services, Intelligence, and Judiciary held 17 hearings over three Congresses. The administration has provided the Senate with over 1,500 pages of information. In the past 2 months, the administration and a task force formed by the majority leader have held almost 60 hours of discussion. Twenty-eight additional conditions, statements, understandings, and declarations to the resolution of ratification have been reached. The overwhelming evidence persuasively argues that now is the time to ratify this treaty.

Ratifying the Chemical Weapons Convention complements the existing military strategy of the United States. We are already committed to unilateral destruction of our chemical weapons. In the early 1980's, the Department of Defense declared about 90 percent of our Nation's chemical weapons obsolete. In 1985, Congress directed destruction of these weapons. President Reagan signed the law that would eliminate approximately 30,000 metric tons of blister and nerve agents by the year 2004. Even President Reagan, one of the greatest advocates of a strong military, decided that chemical weapons were not needed to remain the most powerful fighting force in the world.

We have much to gain by ratification. This treaty will force other nations to adopt the same standard as the United States. The monitoring regime and trade restrictions imposed by the convention will make the production and storage of chemical weapons by rogue states infinitely more difficult and costly. The CWC improves our ability to keep our troops safe and makes the enemy more vulnerable by reducing its options of weaponry.

If we do not ratify the Chemical Weapons Convention, we will abdicate our leadership role in the world. As I have said before, the United States initiated this treaty. It was American leadership that led the negotiations through to completion. It would be irresponsible, both to Americans and the world, to abandon the convention on the eve of implementation. If we do not ratify this treaty tomorrow, the United States will not be able to participate in the executive council which will oversee the implementation of the treaty. Furthermore, U.S. citizens will not be eligible to become international inspectors and serve in other key positions. The ratifying countries will be forced to carry on our idea without us, and the United States will have no choice but to stand aside and watch.

Without our expertise and support, the entire convention may be jeopardized. One of the key elements of the treaty is intelligence gathering. The United States has the most sophisticated intelligence network in the world. If our country refuses to participate, we deny our intelligence community the opportunity to tap into new sources of information and we may cripple the verification regime by denying the international community the benefits of our knowledge.

In addition, the United States is the only nation with extensive experience in destroying chemical weapons. We are also the only country investing heavily in research and development to find methods other than incineration to destroy these weapons. Without our advice, participants in the convention risk inadvertent but dangerous accidents and may squander scarce financial resources attempting to reinvent the wheel in learning how to destroy weapons. Furthermore, if the entire international community pools its resources, both intellectual and financial, to discover safe, environmentally sound methods of destruction, the development time would certainly be reduced. If we show reluctance to ratify the treaty, we will undermine the confidence and commitment of the entire international community. It is counting on us to continue to lead the way.

There are critics of this treaty, but their criticism, I think, misses the mark. This will not inhibit our business, it will help our chemical business. This treaty is not perfect, but it is a better tool for controlling weapons than having no treaty whatsoever. We are, I hope, committed to the path of destruction of our own weapons and to ensure that the rest of the world follows this very prudent, indeed, noble course.

Vocal critics of the Chemical Weapons Convention claim that it is fatally flawed. They state that we should not ratify this treaty because we will not be able to verify that chemical weapons are completely eliminated. Of course this treaty is not perfect. But we will have increased our capability to find and eliminate large scale production of chemical weapons which can cause the most damage. The verification regime will also enable us to discover production and storage of small quantities of chemical weapons that we have little or no chance of discovering now. The CWC is not a panacea, but no law or treaty is. It is a tool that can help us solve a problem. Isn't it better to use the tool to try and fix the problem rather than simply admit defeat?

Critics also contend that the treaty cannot be effective until all nations, particularly those who are known to possess chemical weapons, ratify the convention. It will be impossible to convince every rogue state to sign the treaty. It is also safe to say that some who sign the treaty will cheat. But the CWC is designed to isolate and cajole those who do not join. The treaty uses a most effective weapon against rogue states—economics. Trade restrictions will be implemented against these nations and they will soon be unable to acquire "dual use" chemicals which they need for the production of common items. As these nations begin to feel the pressures from shortages, they may find it advantageous to sign the treaty. Trade restrictions are one of the most effective weapons that the international community has.

In an era when balancing the budget is of primary importance, it is not sunrising that opponents cite the cost of joining the treaty as a reason for not ratifying it. I cannot dispute that there is a financial price for joining the convention. Most of the costs will be incurred for maintaining the activities of the Organization for the Prohibition of Chemical Weapons [OPCW]. These costs will be apportioned according to a system similar to the one used by other international organizations. In addition, each signatory which destroys its stockpile must repay the OPCW for costs associated with verification. In his budget, the President requested about 20 cents per American to pay for CWC costs, a small price for the elimination of chemical weapons. Furthermore, members of this body can ensure that this cost does not escalate in the future, because the conditions agreed to in the Senate Executive Resolution allow Congress to control future payments by granting it the authority to authorize and appropriate any funds above this level. The cost of the CWC is reasonable, and certainly less than the cost of "going it alone" or entering a battlefield where chemical weapons are being used.

Critics of the CWC claim that American private businesses will bear the brunt of the treaty provisions. However, the U.S. chemical industry, the private business which will be most affected by this treaty, heartily endorses its ratification. Contrary to what some have claimed, the burden on industry has not been discounted or ignored. The major trade associations which represent the chemical industry, like the US Chemical Manufacturers Association, have actively worked with those writing the treaty for the past 15 years. The chemical industry helped develop the confidentiality provisions, the data declarations and the inspection regime. Certain companies even participated in the National Trial Inspections to test the verification procedures outlined in the Chemical Weapons Convention. In addition, the conditions agreed to in the Senate Executive Resolution further protect businesses from unreasonable searches and seizures and the dissemination of confidential information. Less than 2,000 facilities will be affected by the treaty, and the vast majority of these must do no more than complete an annual two page form.

Opponents of the Convention claim they are protecting American business interests. But American businesses seem to disagree. They fear, in fact, that the Senate will not ratify the treaty. Ironically, if we do not make the right decision tomorrow, our chemical companies will become subject to the same trade restrictions that will be imposed on non-signatories such as Libya, Egypt, Iraq, North Korea, and Syria. More than $600 million a year in sales could be lost. Treaty critics are protesting so loudly, they seem unable to hear the voices of the constituencies they claim to protect.

We have overcome many hurdles to reach this point: Years of negotiations among the nations of the world, months of negotiations among the leaders of this Nation. We are finally debating this treaty on the floor of the Senate today because we have agreed to an unprecedented 28 conditions—28 duties, declarations and understandings added to a treaty which was proposed, negotiated and agreed to by Republican administrations. But, unfortunately, five hurdles remain. Five conditions demanded by opponents of this treaty may prevent the United States from assuming its proper role of leadership in an ambitious arms control treaty. These conditions unacceptably compromise the treaty and the ability of the United States to participate in its implementation. These conditions are simply not fair play. Every member of this body has a right to oppose this treaty. They can voice their opposition by voting against it and their opinion will be respected. But hobbling the ability of the United States to ratify the Chemical Weapons Convention strikes an unwarranted blow to international arms control and our political process. I urge my colleagues to vote against these five killer conditions.

Mr. President, 34 years ago, President John F. Kennedy undertook the challenge to convince the Senate and the people of the United States of America should ratify the Limited Test Ban Treaty. The same questions were raised about verification, about the reliability of those who might sign the treaty or who might not sign the treaty. In a nationwide television address, President Kennedy reminded us:

> We have a great obligation . . . to use whatever time remains to prevent the spread of nuclear weapons, to persuade other countries not to test, transfer, acquire, possess or produce such weapons.
>
> According to the ancient Chinese proverb, "A journey of a thousand miles must begin with a single step." My fellow Americans, let us take that first step. Let us, if we can, step back from the shadows of war and seek out the way of peace. And if that journey is a thousand miles, or even more, let history record that we, in this land, at this time, took the first step.

Complementing the President's words, though, were the words of a very wise, distinguished statesman of the Chamber, Senator Everett Dirksen of Illinois. In September of that year, 1963, he came to this Chamber and began a speech, but threw the pages away and spoke spontaneously from his heart and said:

> A young President calls this treaty the first step. I want to take a first step, Mr. President. One my age thinks about his destiny a little. I should not like to have written on my tombstone, "He knew what happened at Hiroshima, but he did not take a first step . . ."

We know what happened in World War I with poison gas. We know what happened in the Tokyo subway with sarin gas. Let us not have it said on our tombstone that we knew but were unwilling to take a first step. Let us, like the statesmen before us, take a first step to control weapons, to reduce weapons, to provide a more peaceful, a more dignified world.

Mr. President, I hope we will take that first step and discharge our obligation to the world and to the citizens of this great country.

> On the eve of the vote to ratify another historic agreement, one that seeks not just to limit weapons of mass destruction, but eliminate them, the words of President Kennedy and Senator Dirksen still ring true. We have an obligation to take the first step. Let us do so.

I yield back my time.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. HELMS. Mr. President, I listened in amazement to some of the statements being made today about a nonexistent treaty. The treaty before us I understand, but I do not understand the descriptions that some are indicating that they believe are accurate.

Furthermore, I was astonished at the number of companies that will be required to provide annual business information and undergo routine annual inspections under this arms control treaty, and that is what it is, an arms control treaty.

The Chemical Weapons Convention, so-called, will affect companies engaged in coke, coal, steel production, mining, crop protection, fertilizers, paper production, wood preservation, chlorine manufacturing, color pigments, paint, ink, die stuff production, speciality coatings, powder and roof coatings, plating and packaging, compressed gas, cosmetics, toiletries and fragrances, drug chemicals manufacturing, pharmaceuticals, plastics, textiles, custom chemicals, food, wine, beer, processing and electronics, among others.

The list I just read, as long as it is, is not all of them. So anybody sitting in television land listening to this conversation in the Senate today, I suggest, as the saying goes, wake up and smell the coffee and give some thought about what is going to happen to the business community if, as and when this treaty is ratified.

It is not an ethereal thing that is floating through the air, dropping little rose petals, it is something that can bollix this country up. And yet what you hear from so much of the media and so much of the White House and other proponents of this treaty is simply not so.

I note, however, that even this long list does not cover companies likely to be affected by the CWC, and I simply do not believe it advisable for the Senate

to learn belatedly the far-reaching implications of this treaty for businesses of all kinds across the United States of America. As the April 15, 1997, hearing, recently, before the Senate Committee on Foreign Relations demonstrated, compliance costs—compliance costs, the cost of complying with this treaty—will place a massive new regulatory burden upon so many companies who don't even know it is going to hit them, along with an unprecedented onsite inspections and data declarations that may very well compromise trade secrets vital to the competitive edge of many, many businesses.

So you see, we are dealing with a lot of untrue, inaccurate statements. I am not saying everybody is deliberately distorting the facts. In the media, they do not know what it is all about. I did see Helen Dewar the other day sitting down and having lunch reading the treaty. Bless her heart, she was trying. She looked up and said, "I'm trying to understand this." Well, Helen Dewar is a great reporter with a not so great newspaper, but she was sitting there eating her lunch with the treaty before her.

I would like to take a poll of all the people who have commented on this treaty and see how many of them have even looked at it. That is the problem. That is the problem. But at our hearing the other day, a number of companies, including two members of the Chemical Manufacturers Association, provided testimony relating to rising concerns about the chemical weapons treaty.

Now, then, here is a fact, indisputable: Companies will have to bear an entirely new reporting burden beyond anything required by, say, the Environmental Protection Agency or the Occupational Safety and Health Administration or the International Trade Commission or the Census Bureau—and just name the various State and local agencies that require reports.

Nobody says that on Pennsylvania Avenue about those reports, about the paperwork. Oh, no, we are not going to mention that because they might ask us too many questions. That is precisely the problem. Everybody has been dancing around the truth on this treaty. As a consequence, too few Americans understand the scope of it.

For those businesses that are covered, current reporting thresholds are much higher than those required under the CWC. Some regulations require only prospective rather than retroactive reporting. Moreover, several environmental regulations—how do you like them apples?—will apply to the chemical producers but not to processors or consumers. And reporting deadlines for the chemical weapons treaty are shorter and will require more frequent updates than estimates currently required by the EPA.

So, if you would like to file reports with the EPA, you will file more reports with this chemical weapons treaty. The regulations imposed by EPA and OSHA and all the others, in 1992 alone, 1 year, cost the chemical industry approximately $4 billion—$4 billion with a "B"—$4.9 billion.

Now, isn't it a bit incredible that one major chemical manufacturer employs 1,700 of its 50,000 personnel for the sole purpose of satisfying Federal and State requirements for environmental and regulatory data? That is why, Mr. President, I am concerned that while large, international chemical industries such as those represented by the Chemical Manufacturers Association may be able to afford the cost of the new regulations as a result of the ratification of this chemical weapons treaty, these same requirements will be proportionately far more burdensome for small businesses. That was the point that Don Rumsfeld, former Secretary of Defense, made when he appeared before the Foreign Relations Committee. But that was kept a secret by the news media. They hardly touched on anything that the four former Secretaries of Defense came and testified to. Well, let me correct that. One of them, it was delayed at the last moment, sent a letter.

Now then, there are roughly 230 small businesses which custom synthesize made-to-order products and compete with the large chemical manufacturers. They generally have fewer than 100 employees. They are small businesses, and they have annual sales of less than $40 million each.

Few, if any, of them can afford to employ the legions of lawyers just to satisfy the new reporting requirements of this chemical weapons treaty. Nobody talks about that. Sandy Berger down at the White House has not even mentioned it. He is telling TRENT LOTT and all the rest what to do. Yet, Bob Dole writes letters, but they did not talk about the details of the impact and the burden to be piled on the small businesses of America.

It will not be reported in tomorrow's paper. You will not hear a thing about it unless you are looking at C-SPAN. That is one thing wrong with this country today—no warning is given the American people about some of the actions and some of the proposals that come up in the Congress of the United States.

Mr. President, equally as important, Senators should be careful to note that the onsite inspection provisions of the CWC increase the potential for compromising proprietary information which is offered as the very basis for a company's competitive edge. Many companies will not survive if they had to do without their competitive edge.

While it may be difficult to assess the potential dollar losses associated with the inspections under the chemical weapons treaty, it is clear, Mr. President, it is absolutely clear, that information gleaned from inspections and data declarations could be worth literally millions and millions of dollars to foreign competitors. You better believe that they will be digging for it every time they get a chance. So that is what some of us have been talking about and some of us have been pleading, let us get this thing straightened out before we make the mistake of ratifying this treaty.

Let me tell you something. I do not enjoy having my shirttail on fire in the newspapers and on television about opposing a treaty that the newspapers and the television programs say is a wonderful treaty. But I stood there, as I said earlier this afternoon, five times, and I have taken the oath of office as a Senator. A part of that oath, I say to you, Mr. President, is to support the Constitution of the United States, defend it, and defend the American people. I have done my best to do that for every year that I have been here.

So as Don Rumsfeld, the former Secretary of Defense, emphasized in his testimony during his appearance, which was unnoticed by the news media, his appearance before the Foreign Relations Committee, Don Rumsfeld emphasized that the greatest threat is not—is not—to the large, diversified chemical manufacturers who have the lobbyists lobbying for this treaty—you fall all over the lobbyists—but it is going to be the threat to other companies that are trying to concentrate on a single market or a particular technological nature.

A company whose profitability and economic survival derives from the cost or quality advantage in one type of process will be particularly vulnerable to industrial espionage.

One other thing. For some companies even visual inspection might reveal a unique process configuration of great value to a would-be competitor.

While big chemical businesses routinely undergo Federal inspections, the chemical weapons treaty will allow a whole cadre of international inspectors from countries routinely engaging in economic espionage to inspect hundreds of facilities around the United States on a recurring basis.

Among the companies potentially hardest hit by treaty inspections will be those companies that engage in technologically intensive applications, such as the biotechnology and pharmaceutical sectors as well as the manufacturers of commercial and military aircraft, missiles, space-launch vehicles, and other equipment of a highly sensitive nature. The economic integrity of these companies is essential not only to the economic stability of the United States, don't you see, but in many cases to our future national security.

I, for one, was not surprised to have discovered that the Aerospace Industries Association stated in a March 13,

1997, letter to the majority leader of the U.S. Senate:

We are very concerned, however, that the application of the Convention's reporting and inspection regime to AIA member company facilities could unnecessary jeopardize our nation's ability to protect its national security information and proprietary technological data.

At this point I am going to pause so that Senator BROWNBACK can be recognized.

We had several of those favoring the treaty in a row, and I think it is fair for Senator BROWNBACK to be recognized—for how long?

Mr. BROWNBACK. Seven minutes, if I could.

Mr. HELMS. Seven, eight minutes. I yield to the Senator for that purpose.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BROWNBACK. I thank the Senator from North Carolina for yielding to me for a few minutes to discuss this critical issue in front of the U.S. Senate, the Chemical Weapons Convention.

I would like to state at the very outset of my statement that I would like to be on record that as to the earlier vote we had today of supporting the CWC treaty that came to the floor earlier, that we had an oral vote on, that I support that treaty. I support it. And I will go into the reasons why I supported that and why I will have problems ultimately voting for it if we do not hold tightly to what hit the floor earlier.

Mr. President, I just want to talk about this as a couple people would perhaps talk about it if they were sitting somewhere across this country, somewhere in my State of Kansas, and how they look at the Chemical Weapons Convention.

I think they would sit down and ask themselves: If we enter into this Chemical Weapons Convention Treaty, will it be less likely for chemical weapons to be used in the world or will it be more likely for chemical weapons to be used in the world? It seems to me that that is the real crucible that we have to decide this under: Is it more likely or less likely if we enter into this treaty?

I take this treaty obligation very seriously. I chair the Middle East Subcommittee for Foreign Affairs, the region of the world where perhaps you have the most concentration and the most potentially recent use of chemical weapons happening in a battle situation. This is a very important issue in that region of the world. It is a very important issue in the United States as far as, are we going to be able to rid the world of these terrible, horrible weapons of mass destruction? I take that very seriously. So I have sat and I have visited with a number of people, experts on both sides.

On Monday I did maybe an unusual thing for a Senator. I read the treaty. The parts of it I had not read, I have now read the treaty. I need to get on through the attachments, but I have gone through this. I have looked at the arguments. I have looked particularly at the problems. I have looked at the overall good aspects of it, and I want to say that I do strongly support the objectives of the Chemical Weapons Convention. We must oppose the use and existence of chemical weapons. There is just no doubt about it. They are an abomination that needs to be removed from the face of the Earth. We all agree on that.

But it is actually for that reason, however, that I have some great difficulties with one particular provision—a number of them within the treaty actually, but one in particular. That is article X of this treaty. It is for that reason, if that is left in this treaty, I do not think that I can support the overall vote, if article X is left in.

Let me say why. The Chemical Weapons Convention, if that is left in, I believe will have the exact opposite of the intended effect. And that is, as I said at the outset, are we going to have more chemical weapons used or less? If article X is left in, I fear greatly we are going to have more use of chemical weapons taking place even though the purpose is exactly the opposite.

Let me say why. Article X requires nations to share defensive technology regarding chemical weapons. It is something that has been discussed at some length. The particular paragraph reads this way:

Each State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.

In other words, we are going to be sharing technology, particularly defensive technology, which is very high technology in many of these areas. I fear that that technology is going to more easily get into the hands of rogue nations, like Iran. I am very concerned about their getting weapons of mass destruction.

We had a hearing last week in the Middle East Subcommittee regarding the threat and the expansion of Iran's capacity for mass destruction. The Chinese—and this is unclassified information—have sold precursor chemical weapons to the Iranians. This has in fact occurred. They do not use that without defensive technology to support their own troops, yet this treaty will make the possibility of their getting that defensive technology more likely, if not even ordered within the treaty.

You can say, wait a minute. That is just your interpretation. Well, let us look at what Secretary Cheney has said on this, former Defense Secretary Dick Cheney, an admirable man, who served in the House of Representatives, also in the administration under President Bush. He says this about this treaty:

[the] obligation to share with potential adversaries like Iran, chemical manufacturing technology that can be used for military purposes and chemical defensive equipment, threaten to make this accord worse than having no treaty at all.

Then he is joined, of course, as you know, by former Defense Secretaries Schlesinger, Weinberger, Rumsfeld, and others.

Now you say, well, this is not going to happen. That is just not going to occur. We are not going to have people selling them this sort of technology, either us or other nations. And maybe we will not do it. But will other nations then step forward and sell this defensive technology? You say no, that will not happen. There have been people already pointing out the fact that actually that has already occurred under some previous treaties—the Nuclear Non-Proliferation Treaty being one where the Russians now cite to us that treaty as a reason for them to sell nuclear production capacity to the Iranians, citing the very treaty we entered into to stop this from taking place and that is used back against this to try to expand. And now the Iranians having this capacity, we are trying to stop this nuclear generator from getting fully online for the Iranians. And the Russians cite a nonproliferation treaty that they have to share this technology with the Iranians.

That certainly is not the intent. I am very fearful we will repeat the same mistakes of history here. We have to stop the abomination of chemical weapons. We have to stop it in the United States. We have to stop it in the world. We have to stop the abomination of these weapons of mass destruction, these terrible weapons of mass destruction being used. The way to do that is to have a CWC treaty that actually does it and doesn't spread their use. And striking article X is the way to do that. With that, even though the treaty has a number of other problems, it is supportable. Without that, I actually fear the opposite will occur.

And with that I would like to yield back the time.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. In 30 seconds, I will yield 12 minutes to my friend from Pennsylvania.

Mr. President, I am holding up in my hand here a declaration form for those firms that face reporting requirements for production of discrete organic chemicals, which applies to about 1,800 firms. It is three pages long. I will at a later time read into the RECORD what it asks for to show you how non-onerous it is.

On one of the pages of instructions, on the bottom of the page, it says,

You do not have to declare unscheduled discrete organic chemical plant sites that produce explosives exclusively, produce hydrocarbons exclusively, refine sulfur-containing crude oil, produce oligomers and polymers, whether or not containing PSF, and produce unscheduled discrete organic chemicals via a biological or bio-mediated process.

This eliminates thousands of firms, hundreds of firms at least. And so this is not nearly as onerous as it was made out to be in my humble opinion.

I now yield with the permission of my colleagues 12 minutes to the distinguished Senator from Pennsylvania, Mr SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from Delaware for yielding me this time. I have sought recognition to voice my support for the pending treaty and to give my reasons.

Long before the current debate on chemical weapons, in my college thesis, which I wrote back at the University of Pennsylvania in 1951, on United States-Soviet relations, I was convinced by Prof. Hans Morganthau's dictum that "the objectives of foreign policy must be defined in terms of the national interest and must be supported with adequate power."

As a U.S. Senator, I have long advocated a strong national defense and have worked to shape a comprehensive arms control agenda for the United States as one arrow in our overall defense quiver.

Ten years ago, in 1987, in Geneva, Switzerland, I was an observer to the U.S.-USSR nuclear disarmament talks. That year I debated extensively with many of my colleagues in the Chamber the need for a broad interpretation of the Anti-Ballistic Missile Treaty, ABM. Many of those whom I opposed at that time I now side with on the current issue. I still believe that the approach for a broad interpretation to give the United States additional power, an approach advocated by President Reagan, was necessary and still remains necessary to provide security for our Nation.

From my experience on the Senate Defense Appropriations Subcommittee, I have observed that strength is the best guarantor of peace and that prudent arms control can provide an important basis for such strength. From my work as chairman of the Senate Intelligence Committee, I have seen the wisdom of President Reagan's view that verification not trust is the realistic basis for arms control.

Verification is an important issue in this treaty. It is true that this treaty does not guarantee verification and no treaty has or can guarantee absolute certainty on verification. However, ratifying this treaty gives us far greater opportunity to verify through inspections, data collection, and establishing a norm for chemical arms reduction.

Mr. President, I adhere to my position on the need to secure a strong defense for America. It is my belief that the Chemical Weapons Convention will complement the existing components of our foreign policy which includes our arms control treaties. As we continue to work to protect our troops abroad and our citizens at home from the threat of weapons of mass destruction, arms control is an important ingredient of a sound foreign policy.

Critics of the Chemical Weapons Convention say the treaty provides a false sense of security. On the contrary, no Senator has ever suggested that a single treaty standing alone would adequately deter aggressor nations. The Chemical Weapons Convention is not perfect but we can build on it as a parameter for dialog. Ratification certainly does not mean that we are going to rest on our laurels. The United States did not stop moving forward with strengthening our national defense while we negotiated arms control agreements with the Russians such as the ABM Treaty, SALT I, and SALT II. In this combined approach we were successful. The nuclear threat today is dramatically lower than it was a decade or two decades ago, and arms control agreements are a critical part of that strategy.

Similarly, we must not stop at mere ratification of the Chemical Weapons Convention in our quest to destroy existing and prevent the production of new chemical and biological weapons. One area of the treaty critics often point to as being particularly detrimental to the United States is the search and seizure provisions of the Chemical Weapons Convention which they claim is unconstitutional.

This is a subject that I have worked on extensively since Mapp versus Ohio came down in 1961 imposing the burden on States not to admit evidence seized as a result of an unconstitutional search and seizure. At a time when I was an assistant district attorney in Philadelphia and later as district attorney of Philadelphia, I worked on these issues very, very extensively. Under this treaty, an international inspection team would be allowed to search a U.S. facility to determine whether or not a chemical agent is being diverted to use in noncompliance with the treaty. Similarly, that obligation, that inspection would be available for other nations.

After careful review of the provisions of the treaty, I am personally confident that the language does not conflict with the fourth amendment of the U.S. Constitution but, rather, is in accord with that amendment. The language on search and seizure as negotiated by the administration and Members of the Senate states that in cases where the search is challenged, the U.S. Government will first obtain a criminal search warrant based upon probable cause. So that in any situation of challenge, the search will have to measure up to the tough criminal standard. In cases of routine inspection, the U.S. Government will obtain an administrative search warrant from a U.S. magistrate judge.

Through the months preceding this debate, opponents have raised a number of issues. These include suggestions that the treaty plays into the hands of rogue nations like Libya and North Korea, that it facilitates the transfer of military chemical technology to aggressive countries and prohibits our troops from the use of riot control agents.

There is now agreement on these issues among all the parties involved in negotiating the set of conditions now contained in the proposed resolution of ratification. The Chemical Weapons Convention will actually make it more difficult for rogue states to make chemical weapons. The treaty has prohibitions in place to prevent industrial espionage. Concerning riot control agents, the treaty sets sound guidelines on what agents may be used and when such agents may be used.

As we debate the merits of the treaty and consider the outstanding amendments, I remind my colleagues of the importance of bipartisanship in foreign affairs. We have traditionally said that politics stop at the water's edge and bipartisanship in foreign affairs is of critical continuing importance. It is the role of Senators to shape a climate of bipartisan support for treaties of this magnitude. To work with the administration and our colleagues to craft an agreement that will serve the needs of the United States in both the long and short terms. Two of our noteworthy predecessors, giants in the Senate, one Republican and one Democrat, Senator Arthur Vandenberg and Senator Scoop Jackson exemplify how bipartisanship can work to the betterment of our country. Their willingness to look beyond the confines of partisan politics provides the model for us today as Republicans to support the ratification of the Chemical Weapons Convention.

And I note, Mr. President, the statement today made by our former majority leader, Senator Robert Dole, in support of the treaty.

There is another much more recent example of why ratification of the treaty falls outside traditional partisan politics and that is the potential use of chemical agents against U.S. troops. This is an issue about which I am all too familiar. As former chairman of the Senate Intelligence Committee and as the current chairman of the Veterans' Affairs Committee, I have chaired several hearings on gulf war syndrome. I have traveled extensively throughout Pennsylvania and

have heard from gulf war veterans who have been unable to explain the cause of their illnesses. And many gulf war veterans across the Nation echo similar complaints. Believe me when I say that their suffering is very real.

Last year, this issue was addressed in great detail at a joint hearing of the Senate Intelligence Committee and the Veterans' Affairs Committee. This year a number of hearings have been held both in Washington and across Pennsylvania. And more recently, a few days ago, on April 17, Gen. Colin Powell testified before the Veterans' Affairs Committee on this important matter. While we can still not verify the cause of these illnesses, there are indicators that American troops may have been exposed to chemical agents. During the course of the hearing with General Powell, I asked him what effect if any the Chemical Weapons Convention would have had on Iraq if the United States had ratified the treaty before the gulf war and the treaty would have been in effect.

We will never know with certainty the answer to that question. Iraq is a rogue nation, and it is difficult to imagine them as signatories. But General Powell was quick to point out that the Chemical Weapons Convention works to strengthen America's hand.

He noted, "In the future, when we deal with rogue states or with signatory states, we will be speaking from the position not of unilateral American action, but with the support of most of the nations of the world."

I suggest to my colleagues that it is a matter of considerable importance in protecting American troops from the ravages of chemical warfare, which the gulf war troops may have been exposed to.

Now, we must ask ourselves, if we had this treaty in place beforehand, would we have at least averted or minimized the effects of chemical agents on our troops? We will never know the answer to this question with certainty, but we owe it to our Nation to reach out for every possible means of reducing the threat of chemical and biological weapons. United States ratification of the Chemical Weapons Convention, however, may certainly constrain the further development of chemical weapons by countries like Iraq.

Mr. President, it is obviously impossible to craft a comprehensive treaty that meets the satisfaction of all people. I respect those who have spoken against the treaty. I disagree with them, but I respect the sincerity of their views. Yet, with the appropriate assurances given about some of the finer points of the treaty on objections which have been raised by opponents, most of which have been satisfied, on issues such as constitutional rights, we as a Nation, I submit, should take the moral high ground. We should ratify the treaty, or we will be categorized with the likes of Iraq and Libya. I am not advocating that we ratify the Chemical Weapons Convention instead of pursuing other forms of protection. But it is one important point of protection. The Chemical Weapons Convention is just one more tool for the United States as we work toward a more vigilant defense for our Nation. We have come a long way in making this treaty work for the best interests of the United States of America.

I urge my colleagues in the Senate to vote to ratify this convention.

(The remarks of Mr. SPECTER pertaining to the introduction of the legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BIDEN. Mr. President, in the spirit that these negotiations began with me and the chairman of the committee and Senator KYL, we have continued that spirit. The next speaker we have is undeclared. So we have agreed for a total of 7 minutes he will get. We ask unanimous consent that 3 ½ minutes be taken out of the time of the Senator from Delaware and 3 ½ minutes out of the time of the Senator from North Carolina.

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

Mr. BIDEN. Further, Mr. President, before I yield the floor to my friend from Washington State, we are trying to work out a unanimous-consent agreement on the total 10 hours. I am not propounding such an agreement. But we are hoping we can work out an agreement, whereby in the closed session tomorrow, the so-called secret session that will take place tomorrow, which will be a 2-hour session, that that time not be counted against the 10 hours in the UC for debate on chemical weapons.

Again, I will leave it in the able hands of my friend from Arizona to determine whether the Republican leader is amenable to that, but colleagues who may be listening hopefully were able to do that. The reason I stand up to say that, if they are not, each of us only have about 55 minutes left tomorrow in this process. So for the colleagues who wish to speak, I want them to understand that I am not going to have the time to give them if in fact this doesn't happen. This is by way of disclaimer this evening, so tomorrow morning my colleagues won't come in and say: Joe, you promised me time.

I think we can work it out.

Mr. President, we now yield a total of 7 minutes, 3 ½ from each side, to the distinguished Senator from the State of Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I thank my colleagues. I want to introduce my remarks by expressing my view that this has been a remarkably thoughtful and important debate in the finest traditions of the Senate, not only here on the Senate floor but during the months leading up to it. Perhaps one of the reasons for that is that all Members are united in detesting the use of chemical weapons, divided only by their views on how best to succeed in reaching that goal, and working toward reaching that goal with a high degree of good will and accommodation to one another. So, essentially, from the beginning, the only real question has been: Does this convention advance or inhibit the cause of limiting or eliminating the use of chemical weapons all around the world?

Mr. President, at the very beginning of the debate when the convention was first submitted to the Foreign Relations Committee, I was inclined to fall on the side of that debate that said that the convention probably was worse than nothing because of the overwhelming false sense of security it created, a sense of security that it could not match in its provisions on a wide range of activities attempted to be covered by it.

But as we vote tomorrow, Mr. President, I don't believe we are going to be voting on the original bare bones understanding of the convention. The administration and the proponents on this floor have agreed to some 28 conditions, or explanations, or interpretations of the convention, each of which has contributed to a greater degree of comfort with the balance of the convention and its ratification. Three are particularly important to me. One measure ensures that the Chemical Weapons Convention does not lead to a false sense of security—a false sense that is going to be there no matter what we do, but is at least limited by some specific promises on the part of the administration.

Second, the clarification of the affect of the convention on the use of riot control agents.

Third, and vitally important to us and to our constitutional rights, are the fourth amendment protections against unreasonable searches and seizures.

That is not to say that the other 25 conditions aren't important, Mr. President, but these 3, at least, have been particularly significant, in my view, as I have listened to both sides during the course of this debate.

Nevertheless, I am not yet willing at this point to commit to voting in favor of ratification because of my deep concerns with articles X and XI of the convention, and the proposition that they might well force the United States to share technologies and allow the world, by its sale of chemicals, to a far greater extent, and those technologies and chemicals may be sold at least by responsible and free nations in the world today under the aegis of the Australia Group.

It would be ironic indeed if, in the guise of passing a treaty or a convention to lessen the opportunity for the use of chemical weapons in the future we actually enhanced it by assisting those nations that are willing to sign the convention but which, like Iran, have shown, without the slightest ability to contradict the proposition, that they do not regard any treaty, any convention, as binding on them, and who are more likely than not to use the convention to advance their own ability to violate it.

And so, Mr. President, as I make up my own mind during the course of the next 24 hours, it is the impact of articles X and XI that cause me the greatest degree of concern. I don't believe that we can simply strike them from the treaty. That vote tomorrow seems to me to be the equivalent of saying, no, of killing the convention in its entirety. I do believe, however, that we should continue to work toward clarification and understandings on the part of the administration, as I know the majority leader is doing in this, as he has in many of the other questionable elements of this convention, so that we can be assured that the United States at least will not be required to do something that will undercut its own security and that of its friends and neighbors by the convention, that it is not required to do in the absence of that convention.

So if my concerns with respect to the actual impact in the real world of articles X and XI are met, I will vote to ratify the convention. If they are not, it will remain, in my mind, a situation in which the convention increases our danger rather than obviates them.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I yield myself 7 minutes in accordance with the understanding on the floor now.

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

Mr. LAUTENBERG. Mr. President, while the Senate debates one of the most important arms control treaties in our history, various issues come into play. It is obvious that the Chemical Weapons Convention will ban an entire class of weapons of mass destruction. It prohibits the full spectrum of activities associated with the offensive use of chemical weapons, including development, production, acquisition, stockpiling, and assistance to anyone engaging in these activities. It requires that the destruction of chemical weapons begin within 1 year and it be completed within 10 years.

Mr. President, there is no doubt in my mind that the United States should join a treaty we helped to shape and which enhances our security. I am going to vote for it. Now, with the Chemical Weapons Convention and our leadership, other nations will follow the lead that we set years ago by giving up chemical weapons.

Rogue nations and terrorist countries will have a harder time acquiring or making chemical weapons, and new tools will be available to prevent and punish them if they try. That is a noble goal.

One of the arguments that we have heard against ratifying the Chemical Weapons Convention is that it will force some industries —one in particular—to bear an unusual burden. I want to address this for a few minutes because I don't believe it is true. To the contrary, the chemical industry will bear an undue burden if the United States fails to ratify the CWC. I want to explain why.

If the Chemical Weapons Convention goes into effect without the United States a party, strict trade restrictions designed to pressure rogue states to join the convention would spell disaster for the U.S. chemical industry. Reasonably enough, neither Presidents Reagan nor Bush ever foresaw that the U.S. Senate might decide to place the United States outside of the treaty, along with countries like Iraq, Libya, and other rogue nations.

But the fact is that treaty provisions prohibiting members from trading with nonmembers in certain chemicals that have both commercial as well as military uses would put at risk as much as $600 million a year in two-way trade by American chemical companies, and many jobs.

I will repeat that. Should the U.S. Senate fail to ratify the treaty, as much as $600 million a year in American export and import sales would be placed at risk as a result of sanctions against American companies.

On April 15, Fred Webber, who is the president and CEO of the Chemical Manufacturers Association, testified in support of this treaty. He said:

> The industry I represent is America's largest export industry, with over 1 million American jobs * * * we know how this treaty affects our commercial interests. * * * We began with many of the same concerns about the treaty that have been voiced here. We worked hard to protect U.S. industrial interests, especially proprietary information.
>
> We helped develop the protocols guiding the treaty's inspection and recordkeeping requirements, and we put those protocols to live-fire tests over and over again. * * * In summary, we believe the treaty is not a threat to U.S. business.

Not only does the CWC have the support of the Chemical Manufacturers Association, which represents 193 chemical manufacturing companies, accounting for more than 90 percent of the Nation's productive capacity for basic chemicals, it has the support of the Chemical Industry Council of New Jersey and the Synthetic Organic Chemical Manufacturers Association, with over 260 member companies.

It also has the support of the Pharmaceutical Research and Manufacturers of America and its 100 plus member companies, and the Biotechnology Industry Organization and its 650-plus member companies and affiliated organizations. It has the support of the Council for Chemical Research, the American Crop Protection Association, the American Institute of Chemical Engineers, and the American Chemical Society.

Mr. President, the point I am trying to make is simple—the Senate cannot refuse to ratify the CWC in the name of industry. American industry supports this treaty. It does not believe it places an unfair burden on companies in this country.

In fact, U.S. companies view the convention as an asset because it offers a way to dissociate themselves from chemical weapons production and to be good corporate citizens by helping to eliminate these abhorrent weapons.

American industry even participated in the treaty negotiations and helped write the rules covering inspections and confidential business information. Its top priority during the negotiations conducted by the Reagan and Bush administrations was ensuring that any burdens on business would be reasonable and that trade secrets would be protected. To ensure that the protections against unreasonable searches and seizures and industrial espionage would be strong, the chemical industry tested the treaty during seven full-fledged trial inspections at chemical facilities. It ensured that warrants would be required when a company would not consent to a search and that the treaty would protect sensitive equipment, information, or areas not related to chemical weapons during a challenge inspection. For most companies in this country—more than 90 percent of the 2,000 American companies that will be covered by the treaty—the treaty will require them to do little more than fill out a two-page form once a year. Only about 140 companies are likely to be subject to routine inspections.

In addition to the protections negotiated by industry and already in the treaty, the Senate will be adding five additional protections.

Under additional conditions that will be added by the Senate, if an employee of the Organization for the Prohibition of Chemical Weapons willfully discloses U.S. confidential business information that causes financial harm to a U.S. business, the President is required to withhold half of the U.S. contribution to the organization until that employee's immunity from prosecution is waived. This will serve as a deterrent to breaches of confidential information.

To reduce the risk of industrial espionage, samples collected during inspections in the United States cannot be analyzed in a foreign laboratory. The President would be required to certify annually that the CWC is not significantly harming the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms.

The Senate would support the provision of assistance to U.S. business by the On-Site Inspection Agency. And, the Senate would be informed promptly of the proposed addition of a chemical to any of the CWC's schedules and the anticipated effect of such a proposal on U.S. industry.

Mr. President, this treaty enhances America's security. It is the right thing to do, and I urge my colleagues to ratify it without delay.

I hope that my colleagues will stand up and say this is good for America, that it is good for humanity, and that they will ratify this treaty without delay.

I thank the Chair. I yield the floor.

Mr. KERREY. Mr. President, I rise today in support of the Chemical Weapons Convention. While some of my colleagues may have other means of measuring this convention, I believe when we consider any arms control treaty, the main concern must be how it will affect our national security. I support this treaty because, on balance, our Nation's security will be vastly improved in a world where chemical weapons are outlawed than in a world where the possession of these horrible weapons remains an acceptable practice.

I believe it is important for all in this Chamber and for the public at large to realize that today the United States is committed to destroying all of our chemical weapons. Under a law passed by Congress and signed by President Reagan in 1985, we will destroy all of our chemical weapons stockpile by the year 2004. Further, in 1991 President Bush committed the United States to banning chemical weapons and foreswore their use even in retaliation upon the Chemical Weapons Treaty entering into force.

Many of those who have spoken out against this treaty imply that possession of chemical weapons is the only deterrent against a chemical weapons attack by an adversary. However, in the judgment of our political and military leaders, our Nation does not require chemical weapons to defend our Nation. In fact, the United States has already begun the process of destroying all our chemical weapons. Our Nation reserves the right to retaliate against a chemical weapons attack with overwhelming conventional force or any other means at our disposal. The United States can and will defend itself against any foe armed with a weapon of mass destruction. We do not need these ghastly weapons to ensure the safety of our military personnel and our Nation.

Mr. President, I also believe it is important to note this treaty was negotiated and signed under two Republican Presidents and transmitted for ratification under a Democratic President. The Chemical Weapons Convention is an example of how U.S. foreign policy can be bipartisan and how both parties can act outside the shadow of political maneuvering when it is in the best interests of our Nation. Presidents Reagan, Bush, and Clinton realized the benefits we receive under a treaty banning the possession of chemical weapons could far outweigh any costs incurred by our industries and Nation.

No treaty is perfect. As with other treaties, the Senate has included conditions to the resolution of ratification which I believe strengthen this accord. But opponents of the convention have added five conditions meant not to improve but to kill the treaty. These five provisions must be struck from the treaty if we are to receive the national security benefits the CWC offers our Nation.

The opposition to this treaty centers on three questionable and contradictory points. First, opponents state that since this treaty is not absolutely verifiable, the U.S. Senate should not ratify it. Second, contradicting the first point, opponents state this treaty's verification regime, while not strict enough, nevertheless places too much of a burden on our chemical industry. And, third, opponents state that since rogue nations may either not join the Chemical Weapons Convention or will not comply with the treaty once they become signatories, this treaty does not further our national security interests. I believe they are wrong on all points.

No treaty—be it an arms control treaty, a trade treaty, or a humanitarian treaty—is completely verifiable. If absolute verifiability is the marker, no treaty could attain that ideal and our Nation would never experience the varied benefits we now gain from treaties such as the SALT Treaties, the START Treaties, GATT, NAFTA, the Convention on Fishing, or the Convention on Literary and Artistic Copyrights. Absolute verification should not be the measure of the CWC or any other treaty. Instead of insisting on absolute verification, our Nation has realized the strength of a treaty lies in the enforcement of the treaty and the measure to be taken if a party violates a treaty. America's treaties work because our treaty partners know the full power of the United States lies behind the conventions and we do not hesitate to protect our national interests by enforcing their provisions.

When considering ratification of an arms control treaty, the question must be whether on balance the verification system is strong enough to significantly increase our national security. It is a simple fact that the verification measures included in this treaty are the most stringent and most intrusive of any multilateral arms control agreement currently in place. While still not powerful enough to allow searches of every warehouse, laboratory, or garage in the world, the means to be employed under the CWC are the most thorough and most rational ever to be included in a multilateral international agreement.

The Reagan, Bush, and Clinton administrations all realized the nature of chemical weapons and their production created the need for a stringent system to verify compliance with the CWC provisions. And yet, some safeguards and limitations on the verification system would have to be put in place in order to protect companies engaged in legitimate chemicals from unwarranted hardships. Under President Bush's direction, the proper balance was struck between the strength and rigors of a verification regime on one hand and the intrusiveness of that same system on our industry and Nation on the other. Under the Chemical Weapons Convention, measures are in place which will severely increase the likelihood an illicit producer of chemical weapons will be caught while ensuring that any company that produces or uses potentially dangerous chemicals will not be unnecessarily burdened.

Mr. President, some opponents argue that the treaty has it wrong both ways—they claim it is not intrusive enough to be completely verifiable and also claim the costs incurred by industry are too great under the verification regime. While the nature of all treaties makes them correct on the former point, since no treaty can reasonably be considered absolutely verifiable, the Chemical Manufacturers Association, which represents hundreds of chemical companies, and hundreds of individual chemical companies on their own have expressed their support for this treaty.

If the vast majority of companies that produce or use chemicals pronounce their support for this agreement, I do not believe we should claim the treaty is unduly burdensome on these companies. They know what is in their own interest and they have stated their support for the Chemical Weapons Convention.

Opponents also argue that since rogue nations can be expected not to join in the CWC or will not comply with its provisions the United States should not endorse this treaty. This argument overlooks the fact that even if the Chemical Weapons Convention does not enter into force these same rogue nations can develop and produce chemical weapons. Without the CWC we will still face this same threat.

Yet, if we ratify the CWC and are vigorous in its enforcement, the United States will have a much improved ability to identify clandestine chemical

weapons programs. The nature of chemical weapons make it possible to produce them in facilities as small as a high school laboratory or even a garage. Because these weapons of mass destruction can be produced in small areas, the intelligence community today faces extreme difficulties in locating programs already underway in rogue nations. However, as the Senate Select Committee on Intelligence noted in its September 1994 report on this issue, under the Chemical Weapons Convention, the United States Government will gain important new access to useful information, relevant to potential CWC threats to the United States, that would not otherwise be obtainable. As Acting Director of Central Intelligence George Tenet told the Intelligence Committee on February 5 of this year, the CWC will give our intelligence community more information and more tools to use in our efforts to combat those who would use these horrible weapons.

The Chemical Weapons Convention's regular inspection process and its ability to perform challenge inspections on short notice are very powerful means of catching parties breaking the treaty. The convention also includes varied reporting requirements on the production and use of toxic agents and precursor chemicals which may help the intelligence agencies to locate clandestine production of chemical weapons. If the Chemical Weapons Convention is ratified and we use it to our advantage, the intelligence community will have another important tool with which to fight the battle against these weapons. If we do not ratify the convention, we will forgo a better chance to win a battle we must fight whether or not this treaty is in effect.

The CWC will help protect our citizens by increasing the likelihood that a potential cheater would be caught under its inspection processes. But the CWC helps our national security in other ways as well. Three years after entry into force, the Chemical Weapons Convention prohibits parties from exporting high risk precursor and toxic chemicals to countries not belonging to the CWC. This will further limit the ability of nonsignatory countries to acquire chemicals which could be turned into a lethal gas. Finally, the power of international law created by the CWC against the possession of chemical weapons will assist our own Nation's continuing efforts against this abominable class of weapons.

Taken together, the benefits we gain from ratifying the Chemical Weapons Convention far outweigh the minimal costs of implementing this treaty. The strict verification regime, increased opportunities for our intelligence agencies, the prohibition of exports to nonmember nations, and the force of international law complementing the United States' individual efforts will help protect our citizens and our national interests.

We have already made the decision that possession and use of chemical weapons is not in the security interests of our Nation. We have determined the United States has the means and the will to protect our forces and our Nation without this type of weapon. It is time now to compel the other nations of the world to abide by these same rules.

Mr. President, I have weighed the effects of the Chemical Weapons Convention on our national security and I believe our Nation is safer with this treaty than without it. It is my hope my colleagues will also realize that our national security interests lie in ratification, not in maintaining the status quo of a world where possession of chemical weapons remains acceptable under international law. I yield the floor.

Mr. JEFFORDS. Mr. President, this is a day many of us have been waiting for for a long time. After having been thoroughly reviewed by the relevant Senate committees, both in the last Congress and this one, the Chemical Weapons Convention has finally come to the Senate floor for debate and a vote.

This is a complex and controversial treaty and I thank Senator HELMS, Senator BIDEN, and others for their hard work on the resolution of ratification. The 28 conditions and provisions on which they have agreed go a long way toward protecting American interests and making this an even better treaty. While I have reservations about the remaining five provisions, I am pleased that the Senate will have the opportunity to openly discuss and debate these before moving to a final vote. I believe that when the facts come to light, those who are undecided will vote to ratify the treaty.

I think I can safely say that no one in this body supports the production or use of chemical weapons, even as a deterrent. That is not what this debate is about. What it is about is what we get for what we give up. In other words, is the extra protection from chemical weapons that this treaty affords us worth the financial cost and the regulatory burden required to implement the treaty?

Well, let's take a look. First, what do we get?

Above all, we get enhanced national security. The treaty requires all signatories to do away with chemical weapons and to refrain from any future production. We have already committed to destroy our own chemical weapons stocks, so why shouldn't we grasp an opportunity to require others to do so as well? I think this is a compelling argument. So do a few other people who know something about national security matters: General Powell, General Schwarzkopf, and every living former Chairman of the Joint Chiefs of Staff. Believe me, if this treaty weakened the United States in some way these distinguished Americans would not support it.

With a reduction in the number of chemical weapons we also get increased protection for U.S. troops. We have a responsibility to our brave men and women in uniform to do all we can to protect them as they put their lives on the line for our freedoms. We spare no expense to provide them with the best chemical weapons defenses possible. By the same token, we should do all we can to reduce the actual threat of a chemical weapons attack on them. Recognizing this, a number of the country's most prominent veterans' groups and military associations have spoken out in favor of the CWC, including the VFW and the Reserve Officer Association. They recognize the extra protection this treaty provides our troops in the field.

The CWC also improves our ability to detect chemical weapons production by others. This treaty boasts the most intrusive verification regime of any arms control agreement ever. Will it enable us to sniff out every violation, every criminal effort to produce these horrible weapons? Of course not. But it will give us a powerful new tool to check up on those who seek to employ chemical weapons, something that is important to the intelligence community. Opponents point out that U.S. intelligence agencies cannot absolutely guarantee they will be able to detect treaty cheaters. This is true. But it is also true that the treaty will significantly improve our ability to uncover violations. Let's not make the perfect an enemy of the good.

Finally, the CWC also stiffens international resolve to deal with the chemical weapons threat. Every signatory will be required to enact legislation cracking down on terrorists and criminals who use or threaten to use poison gas, as well as the unsavory businessmen who traffic in these dangerous chemicals. Last week the Senate passed a bill which would tighten U.S. laws in this area. Isn't it in our interest, in this ever-shrinking world, to make sure that others also toughen their laws against chemical weapons production? Moreover, a broadly accepted international regime outlawing this class of weapons altogether will put us on a much stronger footing to respond to serious violations, including by force if necessary.

So with the CWC we get enhanced national security, better protection for U.S. troops, improved ability to detect violations, and stiffened international resolve in addressing this global problem.

That's a pretty valuable package. What do we give up to get it? Well, we must pay our share of the costs for administering the treaty and carrying out required inspections. We must also

underwrite costs associated with preparing U.S. military facilities for inspection. I understand that the Congressional Budget Office has estimated that implementation of the CWC would cost the U.S. taxpayer about $33 million a year. That's about one-twentieth of the amount that we spend every year on chemical and biological weapons defenses. I think that's a reasonable investment to reduce the core threat against which these defenses are needed.

The treaty does impose additional reporting and inspection requirements on American businesses in the chemical field. This is regrettable but necessary if we wish to have a serious verification regime. It's worth noting, though, that the U.S. chemical industry was closely involved in the negotiation of the treaty and strongly supports it. I am sympathetic to the concerns expressed by smaller businesses affected by the treaty but believe that some treaty opponents have vastly exaggerated the additional regulatory burden involved. As I understand it, the vast majority of these businesses will need do no more than submit a short, basic informational form annually. And only a handful are likely to be inspected in any given year. This is a small price to pay for the many benefits of the treaty.

Finally, I would like to address the argument that the United States should withhold ratification until Russia and all the so-called rogue states sign and ratify the treaty. The issue is not whether we should press these countries to join the treaty—of course, we should—but how to most effectively achieve this goal. Does anyone really think that withholding U.S. ratification will convince these countries to sign up? Standing on the sidelines with arms folded will only give encouragement to those who want to ignore this treaty and continue making chemical weapons. The United States is a world leader and should act like one. We should not allow thugs like Qaddafi and Saddam Hussein to dictate our approach to national security matters.

Mr. President, this treaty is good for America and good for the world. It's not perfect. What international treaty is? But it serves our interests and improves our security. For these reasons, I will vote to ratify and encourage my colleagues to do the same.

Mr. KENNEDY. Mr. President, the 29-year-old pursuit for a chemical weapons treaty has finally reached its moment of truth in the United States Senate. Few votes cast in this Congress or any Congress are likely to be more important.

The effort to achieve this treaty was launched in 1968, and its history is genuinely bipartisan. In that year, the final year of the Johnson administration, international negotiations began in Geneva to build on the 1925 Geneva Protocol and try to reduce the production of chemical weapons. In the 1970's, President Gerald Ford had the vision to take that initiative a major step forward during intense international negotiations.

President Ronald Reagan advanced it to the next stage with his efforts on arms control in the 1980's. And President Bush deserves high praise for embracing the ideal of eliminating chemical weapons, for making it a serious worldwide effort, and at long last bringing it to the stage where it was ready to be signed. In one of his last acts in office, George Bush signed the treaty, on January 13, 1993.

President Clinton formally submitted the Chemical Weapons Convention to the Senate for its advice and consent later that year. Now, it's our turn. Today and tomorrow, in a series of votes, the Senate can and should join in this historic endeavor to rid the world of chemical weapons. We can bestow a precious gift on generations to come by freeing the world of an entire class of weapons of mass destruction.

The chemical weapons treaty bans the development, production, stockpiling, and use of toxic chemicals as weapons. Previous agreements have merely limited weapons of mass destruction. But the Chemical Weapons Convention sets out to eliminate them from the face of the earth.

The United States has already taken many steps unilaterally to implement a ban of our own. As long ago as 1968, this country ordered a moratorium on chemical weapons production.

When President Bush signed the treaty on behalf of the United States, he also ordered the unilateral destruction of the U.S. stockpile of these weapons. Regardless of the treaty, the United States is destroying its chemical weapon stockpile.

Today and tomorrow culminate many years of work and compromise. The Senate has held 17 hearings on the convention. Every issue has been exhaustively analyzed. The result is the shootout that the leadership has arranged for the next 24 hours.

Bipartisan negotiations have achieved agreement on 28 amendments to the treaty, none of which go to the heart of the treaty and many of which help to clarify it.

But five major issues have not yet been settled. The five amendments, on which we will vote tomorrow, seek to settle differences of opinion the wrong way. They are killer amendments. I hope the Senate will vote "no" on each of them. If any one of them passes, it will doom our participation in the treaty, and relegate us to the company of outlaw regimes like North Korea and Libya, who also reject the treaty.

Two of the killer amendments condition our participation on whether other nations—Russia, Iran, Iraq, Syria, and China—have already become participants. Essentially, they would hand over U.S. security decisions to those nations.

A third killer amendment arbitrarily excludes all representatives from certain other countries from participating in verification inspections. This amendment ignores the ability that the treaty already gives us to reject any inspectors we believe are not trustworthy.

A fourth killer amendment omits and alters other key parts of the treaty that deal with the export of certain materials. Its proponents fear that rogue nations may gain valuable technology from us. Nothing in the convention requires the United States to weaken its export controls. Experts in the chemical industry, trade organizations, and Government officials have worked to ensure that nothing in the treaty threatens our technology and industrial power.

The fifth killer amendment places an unrealistically high standard of verification on the treaty. It requires the treaty verification procedures to accomplish the impossible, by being able to detect small, not militarily significant, amounts of dangerous chemical materials.

No international agreement can effectively police small amounts of raw materials that might possibly be used in chemical weapon production. Every effort is being made and will be made to make the detection procedures as effective as possible. It is hypocritical for opponents to attempt to scuttle this treaty because they feel it does not go far enough.

The overwhelming majority of past and present foreign policy officials, military leaders, large and small businesses, Fortune 500 companies, Nobel laureates, veterans organizations, religious groups, environmentalists, and public interest groups are united in their strong support of the convention. It is a practical international agreement with practical benefits for the United States, and the United States should be a part of it.

Nevertheless, the treaty is being opposed by an entrenched band of foreign policy ideologues and isolationists who think the United Nations is the enemy and who say the arms race should be escalated, not restricted. History proved their ilk wrong once before, when they sank the League of Nations in the 1920's. And it will prove them wrong, again, with far more drastic consequences than World War II, if they prevail today.

We cannot let that happen. The Senate should reject the five killer amendments, and give this treaty the two-thirds vote it needs and deserves.

Mr. DODD. Mr. President, I rise today to express my strong support for U.S. ratification of the Chemical Weapons Convention.

First, I wish to thank Senators BIDEN and LUGAR for their untiring efforts in

seeking ratification of this historic treaty. I also want to commend the majority leader for working diligently with both sides to bring this treaty to the Senate floor for consideration. No matter where one stands on this issue, we all agree that it is proper for this debate to take place while our Nation can still become a full participant in the convention.

I think that it is only appropriate that we are having this debate 1 week after we commemorated the second anniversary of the bombing of the Murrah Federal building in Oklahoma City. That singular event made us all aware that we are vulnerable to terrorism on our own soil. We also remember when terrorists launched a chemical attack in Tokyo's subways, taking 12 lives and injuring thousands more. We must take action to protect Americans from a similar terrorist outrage, and therefore it is incumbent upon this body to approve the Chemical Weapons Convention.

The Chemical Weapons Convention is also relevant today in light of recent findings that thousands of our troops may have been exposed to chemical weapons during the Persian Gulf war. Veterans groups across the country have called on the Senate to approve the CWC, and I believe that it is inexcusable for us to forgo this opportunity to take a stand against chemical warfare. If we fail to do so, we will be unnecessarily placing those who volunteer their services in our military at risk.

It is impossible to overstate the importance of the votes that will be cast in this Chamber tomorrow. We have an opportunity to consider a proposal that would eliminate an entire class of weapons of mass destruction, and we may never have this opportunity again. Our decisions will have a tremendous impact on the safety of the American people and our Nation's role as an international leader.

We are all familiar with the horrifying effects associated with chemical weapons. We remember the use of mustard gas in World War I and the use of chemical weapons during the Iran-Iraq war. It was the inhumane nature of chemical warfare that prompted President Reagan to initiate the negotiations for an international treaty to eliminate the use of chemical weapons. President Bush was also committed to phasing out chemical weapons, and the United States joined 160 other nations in signing the Chemical Weapons Convention during the final days of his administration.

President Clinton has been a strong supporter of the convention, and he has made ratification of this treaty his top foreign policy priority.

For nearly a decade, the United States led efforts to develop the Chemical Weapons Convention, and the result was an effective agreement to eliminate chemical weapons that was unprecedented in its scope. Considering its history of bipartisan support, one would have expected this treaty to be easily approved by the Senate. Unfortunately, opponents of the convention have distorted the facts surrounding this treaty, and it is possible that the United States will fail to ratify the treaty that it initiated.

I strongly believe that the Chemical Weapons Convention is an effective tool for combating chemical warfare, and I hope that my fellow Senators will look beyond the rhetoric of the treaty's detractors and look at the positive things that this measure would accomplish.

The Chemical Weapons Convention bans the development or transfer of chemical weapons by member nations. It also requires participating states to destroy their chemical weapon stockpiles and chemical weapons production facilities under the observation of international inspectors.

The convention would also establish the most extensive verification regime of any arms control treaty, that would require inspections of not only governmental facilities but also civilian facilities. This system of monitoring will provide us with a mechanism for knowing who produces what chemicals throughout the world, and where these chemicals are being sent.

The convention also prohibits signatory nations from exporting chemicals most frequently used in chemical weapons to non-member countries. The import of some chemicals from nonmember nations would also be prohibited. These measures should isolate nonmember nations and provide them with incentive to ratify the convention.

In order to oversee the convention's implementation, the CWC establishes the Organization for the Prohibition of Chemical Weapons, or the OPCW. This organization will monitor the chemical production throughout the world and will enforce compliance with the convention.

On April 29, the Chemical Weapons Convention will go into effect with or without the United States' ratification. The Senate must provide its advice and consent on the treaty and send a resolution of ratification to the President before next Tuesday, so that he may formally ratify the treaty.

Many hours of intense negotiations have yielded the resolution of ratification to the Chemical Weapons Convention that we are now considering on the Senate floor. This resolution contains 33 conditions which cover nearly every objection raised by opponents of ratification. I am pleased that negotiators have reached an agreement on 28 of those 33 conditions. However, the Senate will have a separate vote on each of the five remaining conditions tomorrow. I would like to stress that approval of any of these conditions would be tantamount to prohibiting U.S. participation in the Chemical Weapons Convention and could fatally damage the effectiveness of this treaty.

I would like to quickly address these five conditions that threaten ratification of this treaty. Two of these conditions tie our ratification to the actions of other nations. One demands that Russia ratify the treaty first, and the other precludes ratification until the world's rogue nations like Libya and Iraq ratify the treaty.

The logic behind these two amendments is that the convention is meaningless if it does not include all nations with the capability to develop and use chemical weapons. This logic is seriously flawed.

The CWC would impose trade restrictions on nonmember nations that will curb their ability to obtain the materials used in making chemical agents. In addition, by establishing an international legal standard opposing the manufacture and use of chemical weapons, the United States will be able to isolate these pariah states making it more difficult for these nations to acquire chemical weapons.

Also, since when does the United States allow other nations to dictate American policy? It is ridiculous to suggest that we should compromise our position as a world leader by following the lead of fringe countries.

President Reagan did not wait for other nations when he declared that this Nation would unilaterally destroy its chemical weapons stockpile. He did not wait for other nations when he initiated negotiations to ban chemical weapons from the Earth. We did not follow others in making those critical decisions. We led and others fell in behind us. This Nation set the example. And now it is time for us once again to lead and set the example.

In fact, perhaps the greatest way to ensure that Russia and other countries with offensive chemical weapons programs will not endorse this treaty, would be for the United States to reject this treaty. Seventy-three other nations, including all of our major allies, and two-thirds of all countries with chemical weapon capabilities, have already endorsed this treaty. I hope that we will align ourselves with those who have ratified the convention and not with those outlaw nations.

Another condition that will be considered as an amendment would bar individual inspectors because they come from a country that supported terrorism or violated U.S. nonproliferation law. If a particular inspector has a past history of spying or assisting terrorists, we must prevent him or her from inspecting our facilities. But if we bar certain inspectors based solely on their nationality, other countries will certainly bar U.S. inspectors. In addition, these will likely be the countries that we would most like to monitor.

Another condition that would surely kill the ratification agreement demands a level of verification that simply cannot be guaranteed. Like every other arms control agreement, this one is not 100 percent verifiable. Certainly, that is not a reason to avoid ratifying this treaty. The question ought to be: Are verification measures under this treaty better or worse than those we have now?

The answer to that question must be "yes." This treaty includes tougher verification measures than any existing arms control agreement to the extent that it allows for frequent inspections of both governmental and commercial chemical manufacturing plants throughout the world. And while chemical weapons are generally more difficult to detect than conventional weapons, the U.S. intelligence community has confidence that it will be able to detect a large scale effort to develop chemical weapons.

The remaining condition of the ratification resolution is perhaps the most contentious, and it would certainly kill all hopes of ratifying the Chemical Weapons Convention if it were to pass as an amendment tomorrow.

In today's Washington Post, my colleague from North Carolina, Senator HELMS writes: "* * * the one issue that has raised the greatest concern among Senators—the issue on which the ratification vote will almost certainly hinge—is the Clinton Administration's refusal to modify the treaty's Articles 10 and 11." His next sentence is particularly important, "These controversial provisions require the transfer of dangerous chemical agents, defensive gear and know-how to any nation that joins the CWC." With all due respect to my colleague from North Carolina, the simple fact of the matter is that this statement is not true. Article 10 does not require the United States or any other signatory to share advanced chemical weapons defense technologies and equipment with other countries or to assist them in the development of such capabilities.

I hope that all of my colleagues, who are considering opposing the CWC for this reason, will simply refer to the actual text of the convention to understand the true implications of the treaty.

Paragraph 7 of article 10 states: "Each State Party undertakes to provide assistance through the Organization and to this end to elect to take one or more of the following measures." One of the choices is, "to declare, not later than 180 days after the Convention enters into force for it, the kind of assistance it might provide in response to an appeal by the Organization." In no way does this language require any country to share advanced chemical defense technology and equipment. In fact, 1 of the 28 conditions agreed to in the resolution of ratification will ensure that no assistance other than medical antidotes and treatments is provided by the United States under article 10.

Opponents of the convention have also raised concerns regarding paragraph 3 of article 10. It reads as follows: "Each State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material, and scientific and technological information concerning means of protection against chemical weapons." The inclusion of the word "right" underscores that each signatory state has a right, not an obligation, to exchange materials and information.

In fact, President Clinton confirmed this interpretation when he recently stated: "We have made it clear that, as regards to other countries, we will not do anything to give them our technology * * * and that our response will be * * * limited to helping them deal with the health effects of an attack. We will help people in medical ways and with other things having to do with the health consequences."

The national security concerns raised by Senator HELMS were shared by the representatives of the Reagan and Bush administrations who negotiated this treaty. That is why treaty negotiators took great lengths to ensure that the treaty's language would be carefully crafted to protect America's interests. In responding to the criticisms of article 10 of the convention, I'll simply use the words of former Secretary of State James Baker: "The suggestion that Presidents Bush and Reagan would negotiate a treaty detrimental to the nation's national security is outrageous."

I hope that my colleagues will not take the criticisms of this critically important treaty at face value and will closely examine the actual text.

The final condition which opponents of the treaty seek to raise relates to cooperation in the field of chemical activities for businesses. Critics argue that the CWC might force industry to share manufacturing and trade secrets with other nations. These criticisms are completely unfounded. Fred Webber, president and CEO of the Chemical Manufacturers Association, criticized these allegations stating that, "the Chemical Weapons Convention does not obligate us to turn over trade secrets, and it most certainly does not require the U.S. to abolish its system of export controls on dual-use chemistry. The CWC raises the export control bar for other nations to the high standard already set by the United States. That's why this treaty is in the national interest." In fact, it is ironic that critics of the treaty argue that they support the interests of America's chemical and pharmaceutical companies. Yet, if we fail to ratify this treaty, these very same companies will be subject to trade restrictions that were devised by the United States.

Members of this body must examine the elements that set this agreement apart from others. The Chemical Weapons Convention was signed by nearly every nation in the world; it penalizes nations that refuse to sign on; it provides for routine and challenge inspections; and it creates an international norm that would prohibit the very existence of chemical weapons. We must recognize that there has never been an arms control treaty that better accounted for the skeptic's concerns than this one.

Today we live in a world of nations that increasingly act together. In this time of economic unions, coalition forces, and multinational businesses, we can ill-afford to disengage from the international community. If we do not ratify this treaty or if we accept conditions that prevent our ratification, we will careen off the course that we set for ourselves and the other peace-loving nations of the world.

Worse, we will force the nations who have ratified the treaty to decide between ridding the world of chemical weapons on the one hand and maintaining good trade relations with the richest nation in the world on the other. If we force our allies to make decisions like that, they'll be justified in looking elsewhere for leadership.

I strongly believe that ratification of the Chemical Weapons Convention is in the best interests of the United States, and I urge my colleagues to support this historic treaty.

Mr. BIDEN. Mr. President, as we close the first day of debate on the Chemical Weapons Convention, I wanted to insert into the RECORD an explanation of the 28 conditions to the resolution of ratification that we adopted this afternoon, so we can create a legislative history.

Mr. President, the Chemical Weapons Convention is a fine arms control agreement. It can stand on its own.

But the U.S. Senate has a constitutional duty to consider carefully all the implications of treaties submitted for its advice and consent to ratification. Such careful consideration often enables us to spot aspects of an agreement that merit clarification, or implementation matters on which we would be well advised to require particular executive branch policies.

The Chemical Weapons Convention is no exception to this rule. Over the years since its signing over 4 years ago, near the end of the Bush administration, we have identified several areas in which clarifying the convention's intent or establishing requirements regarding executive branch implementation would be useful.

In addition, there were several areas in which some of my colleagues wanted assurances that went beyond those that the executive branch or I could

give them, even though we thought that such reassurances ought to suffice. In many such cases, the easiest way of providing the needed assurances was to codify them in a condition to the resolution of ratification.

The convention enters into force on April 29, with or without the United States. To be an original state party, therefore, the President must deposit the instrument of ratification by midnight on April 28. As a technical matter, the Senate's vote is not the final word, because the Senate does not "ratify" a treaty; it provides advice and consent to it. Once that occurs, the President then must formally ratify—an indication to our treaty partners that the United States is consenting to be legally bound to its terms—by signing an "instrument of ratification." The President then directs the Secretary of State to deposit that instrument at a central location designated by the convention; then, once the convention enters into force, the United States is bound under international law to abide by its terms.

The Senate's role in providing consent to a treaty is not that of a rubber stamp. The Senate may attach amendments or reservations to the treaty—essentially changing the terms of the original bargain between the United States and its treaty partners, or it may adopt conditions, which are, in effect, a binding contract between the Senate and the President which will govern how the treaty will be implemented or interpreted under U.S. law and practice.

In the case of the Chemical Weapons Convention, no amendments to the convention's text have been, or will be, offered; the Senate has already moved beyond the stage in its consideration of treaties in which such amendments would be in order. Neither have any reservations been put forth—although article XXII of the convention purports to prevent a party from doing so. The Senate has gone on record several times, and does so again in condition 17, that the President's agreement to such a prohibition cannot constrain the Senate's constitutional right and obligation to give its advice and consent to a treaty subject to any reservation it might determine is required by the national interest.

Instead, we have a set of 28 conditions which were agreed to by those involved in the negotiations to date, and which the Senate approved by voice vote earlier this afternoon. These conditions, as stated before, are binding upon the President.

Several conditions will be debated tomorrow which are tantamount to killing the treaty. For example, any condition which requires a renegotiation of the treaty—as condition 32 does—is a killer, plain and simple, because there is no way that this treaty can be renegotiated. Additionally, any condition which requires the President to make impossible certifications before depositing the instrument of ratification will prevent the United States from formally entering the convention.

As I described earlier, there have been several stages of negotiation to work out agreed conditions to the resolution and to narrow our areas of disagreement. The Senator from North Carolina and I engaged in many hours of negotiation as part of this process.

The end result of our negotiations, of the negotiations between the White House and the task force established by the majority leader, and of discussions directly between the White House and the majority leader is a set of 28 agreed conditions to the resolution of ratification. I would like to summarize and comment upon those agreed conditions, so that my colleagues may understand what we have achieved.

For I think that we have achieved quite a lot. I also think that Members should study the many agreed conditions that the Senator from North Carolina was able to propound. Frankly, virtually all of the concerns that have been raised regarding the CWC have been addressed in these agreed conditions, in a manner that should substantially ease those concerns.

So I would like to summarize, Mr. President, what the Senator from North Carolina and I, along with other Members and the executive branch, have been able to achieve.

PROVIDING PROTECTION FOR INDUSTRY

The CWC contains a number of built-in protections for U.S. businesses, largely because industry helped write many of the convention's provisions. A number of conditions have been added, however, to provide even greater protection for business.

Condition 16 provides that if an employee of the organization for the prohibition of chemical weapons, or OPCW, willfully discloses U.S. confidential business information that causes financial harm to a U.S. business, the President must inform Congress. If the director-general does not waive the employee's diplomatic immunity from prosecution, which may be done pursuant to paragraph 20 of the CWC's confidentiality annex, within 9 months of the President's reporting the matter to Congress, the President is required to withhold half of the U.S. contribution to the OPCW until that employee's immunity from prosecution is waived. This will serve as a strong deterrent to breaches of confidential information. You might call it a "don't mess with our trade secrets" condition.

Condition 18 is a further protection for proprietary information. This condition prohibits any samples collected during inspections in the United States from being analyzed in a foreign laboratory. This will greatly reduce the risk of industrial espionage. I frankly have concerns about this condition. I hope it does not lead to every country keeping all its samples in-country, so that all of Iran's samples are analyzed in Iran and all of Russia's samples are analyzed in Russia. But there is no question that this is a major concession to some of my colleagues' concerns regarding the need to protect confidential business information.

Condition 9 requires the President to certify, both now and annually, that the CWC's limits on the production and use of the most toxic chemical weapons and their precursors are not significantly harming the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms. The administration is fully prepared to make that certification.

The Reagan, Bush, and Clinton administrations have all taken extraordinary measures to limit the impact of the CWC upon U.S. businesses. For example, the Bush administration made sure that challenge inspections would be subject to "managed access," in which a firm will be able to limit the access of inspectors to the minimum necessary to disprove any allegations of CWC violations by that firm. And the Clinton administration worked with other countries in the CWC Preparatory Commission to make sure that most of the businesses covered by the convention will only have to fill out a short form to comply with the requirement for data declarations.

Condition 21 puts the Senate on record supporting the provision of assistance to U.S. businesses by the On-Site Inspection Agency—or OSIA—an arm of the Department of Defense. OSIA has years of experience in helping protect sensitive information during inspections of Government-run facilities and defense contractors. This Agency lacks authority to aid other U.S. businesses, however. Following through on this provision with authorizing legislation—which I would hope we could do in the CWC implementing legislation—would ensure that American businesses have the full benefit of OSIA's expertise available to them.

Under condition 23, the Senate will be informed promptly of the proposed addition of a chemical to any of the CWC's schedules of chemicals. A report from the President will indicate the anticipated effect of such proposal on U.S. industry. If a proposed addition should appear to promise too great a burden on U.S. industry for too little gain in protection against chemical weapons, Congress will then have time to convince the executive branch to force that proposed addition into a CWC process that requires two-thirds vote of the states parties to adopt the change.

HOLDING DOWN U.S. COSTS

Allegations have been made that the CWC will create a massive U.S.-style bureaucracy that will cost U.S. taxpayers hundreds of millions of dollars.

Several conditions have been agreed upon to keep U.S. costs to a minimum and ensure a well-managed organization.

Under condition 22, regular U.S. contributions to the Organization for the Prohibition of Chemical Weapons, or OPCW, have been capped at $25 million annually. Any increase to this cap must cross two high hurdles. First, the President must make a "national security interest" waiver. Second, the Congress must enact a joint resolution approving the President's waiver.

Fortunately, condition 22 allows a periodic inflation adjustment to the regular U.S. contribution. In addition, the United States will be permitted to contribute funds to help the OPCW handle the costs of monitoring U.S. destruction of chemical weapons. Those are costs that we originally intended to fund for implementation of the 1990 bilateral destruction agreement between the United States and the Soviet Union, and they have not been included in the regular OPCW budget.

Condition 2 provides that any U.S. contributions to the OPCW will be subject to congressional authorization and appropriation. This means that not one dollar can be transferred to the organization by the U.S. Government without congressional approval.

Pursuant to condition 3, the OPCW must create an independent inspector general within its first 9 months of operation. Otherwise, half of the regular U.S. contribution to the OPCW budget will be withheld. An inspector general will ensure rigorous oversight of OPCW activities and expenditures.

While it is in the U.S. interest for the CWC to have a strong verification regime, we should not have to foot the bill for all of the research and development that goes to improving verification. That is why condition 4 was included, to require that any research and development by the United States that is designed primarily to improve the verification provisions of the CWC—including the training of OPCW inspectors—must be pursuant to an agreed cost-sharing arrangement that spreads the costs of such R&D equitably between the United States and the organization.

A cost-sharing arrangement will also be required in order to share items or services that were developed through U.S. research and development. It will still be possible, however, for U.S. agencies to pursue R&D programs so as to improve U.S. monitoring of chemical weapons, and cost-sharing arrangements need not be in place unless and until the United States wants to share the results with the OPCW.

We would also not want to be stuck with the bill for Russian destruction of their vast chemical weapons stockpile. So there is agreement on condition 14, under which the United States shall not accept any Russian effort to condition its ratification of CWC upon United States guarantees to pay for Russian implementation of chemical weapons destruction under the CWC or the 1990 bilateral destruction agreement.

ENSURING IMPROVED MONITORING, VERIFICATION AND ENFORCEMENT

Some opponents of CWC have alleged that the convention will lead to a "dumbing down" of U.S. intelligence and that the United States will shy away from taking tough actions when faced with instances of noncompliance. Three conditions address these concerns head-on.

We all know that monitoring and verification of some aspects of CWC compliance will be difficult. This fact of life has prompted understandable concern on the part of some Members, and the administration has accepted a condition— No. 10—that requires both periodic reports and prompt notice regarding world chemical weapons programs and the status of CWC compliance. The executive branch would also offer briefings on current compliance issues, including issues to be raised in OPCW meetings and the results of those meetings.

The careful reader of condition 10 may note some hyperbole in it. Thus, the first subparagraph states that "the convention is in the interests of the United States only if all parties * * * are in strict compliance * * *, such compliance being measured by performance and not by efforts * * *"

In truth, of course, there may be major violations or minor shortfalls. If a party is delayed in its sincere efforts to clean up the vestiges of a long-inactive chemical weapons program, that will hardly constitute a threat to U.S. national interests. But the drafters of this condition are on to something; even minor violations by a few parties could erode the commitment of other parties to strict compliance with the convention.

The important thing is that the administration is not afraid to keep Congress in the loop on CWC compliance issues. Condition 10 requires briefings at least four times a year for the Congress on U.S. actions taken to address compliance issues. This regular flow of information will allow the Congress to keep abreast of chemical weapons programs and to judge for itself whether the United States is doing enough to detect and respond to noncompliance.

It may be in our interest at times to share intelligence with the OPCW, especially so as to maximize the effectiveness of the CWC's on-site inspection regime. All agree that we should take steps to protect U.S. sources and methods when sharing intelligence information.

Thanks to the work of the senior Senator from Alabama, which I am happy to commend, condition 5 has been added to do just that. It requires the intelligence community, at the interagency level, to fully sanitize and to approve all intelligence information before it is released to the OPCW.

The Director of Central Intelligence can waive this requirement for particular documents on a case-by-case basis, but that must be promptly reported to the Foreign Relations and Intelligence Committees of the Congress. The Director must also report on the procedures set up to protect classified information and on any unauthorized disclosures of information provided to the OPCW.

The Senator from Alabama's condition makes a real contribution to the verification of compliance with the CWC. The ability of the United States to share information with the OPCW is vital to catching would-be violators of the convention. I hope that this condition will not only ease the Senator's concerns over the protection of intelligence sources and methods, but also reassure him that the overall convention is in the national interest.

All of us want the executive branch to act effectively in the event that a State party should violate the CWC in any manner that threatened U.S. national security interests. Condition 13 will require the executive branch to report to and consult with the Senate regarding such violations and to make effective use of CWC provisions for challenge inspections, high-level diplomacy and U.N. sanctions. The executive branch also agrees that any sanctions required by U.S. law should be implemented in such a case.

Pursuant to subparagraph (A)(vi), if the noncompliance should persist for a year, the executive branch will be bound to consult with the Senate for the purposes of obtaining a resolution of support of continued adherence to the convention. This seems unduly rigid; a country may well need more than a year to come into compliance if it must destroy chemical weapons stocks or facilities. Frankly, I do not know what is to be gained by requiring the executive branch to consult each time on a possible resolution of support for continued adherence to the CWC. But condition 13 does not require that such a nonbinding resolution be introduced or voted upon in every case, so there is little potential for harm in this.

Some other aspects of condition 13 merit additional explanation. For example, several of the mandated executive branch responses to CWC violations must be undertaken on an urgent basis. This does not mean that they must all proceed concurrently. Thus, in some cases high-level diplomacy will suffice and there will be no need to seek a challenge inspection or U.N. sanctions.

In some cases, it might be necessary to prepare the groundwork carefully for a challenge inspection or a diplomatic approach. The Senator from

North Carolina and I are agreed that the executive branch could proceed with such preparations on an urgent basis, even though they may take many months to come to fruition.

Finally, the requirement in subparagraph (A)(ii) that the executive branch seek a challenge inspection should not be read as requiring that the United States must always be the party that initiates such a request. There might well be other States parties with an equal or greater interest in a given country's apparent violation of the CWC, and it might be more fruitful in some cases for the executive branch to work with those other States parties to secure the common objective of a challenge inspection.

MAINTAINING ROBUST CHEMICAL DEFENSES

Some have asserted that if the United States joins the CWC, we will be lulled into a false sense of security and drop our guard against the continuing threat of chemical weapons. This concern is frankly a bit mystifying. Aside from the risk that any arms control treaty might be violated by a State party to it, U.S. military leaders are quite aware that such potential military adversaries as Iraq, Libya, and North Korea are not planning to sign the convention. The Joint Chiefs of Staff support CWC not because it will automatically remove the need to defend against chemical weapons, but rather because CWC is a vital step toward reducing and combating that threat.

While the opponents' argument ignores the fact that the Pentagon has requested $225 million in additional funds for chemical weapons defenses over the next 5 years, a condition has nonetheless been added to address their concerns. Pursuant to condition 11, the Secretary of Defense shall ensure that U.S. forces are capable of carrying out required military missions in U.S. regional contingency plans, regardless of any threat or use of chemical weapons. In particular, U.S. forces must be properly trained, equipped, and organized to operate in chemically and biologically contaminated environments. This means not only improving the defensive capabilities of U.S. forces, but also initiating discussions on chemical weapons defense with likely coalition partners and countries whose civilian personnel would support U.S. forces in a conflict.

The administration has also agreed to assure that the U.S. Army Chemical School remains under the supervision of an Army general. Finally, the President is required to submit exhaustive annual reports to Congress on the State of Chemical and Biological defense efforts.

CONSTITUTIONAL CONCERNS

Some opponents of the CWC have alleged that it will violate the U.S. Constitution by permitting international inspectors to conduct warrantless searches of U.S. facilities. Actually, a number of legal scholars have noted the specific constitutional protections written into the convention. To ease any members' lingering concerns, however, two important agreed conditions have been added.

Condition 28 makes it crystal clear that no warrantless searches will be permitted when access to inspectors is denied. All challenge inspections will require a criminal warrant based upon probable cause when consent to that inspection is withheld. An administrative warrant will be required for routine inspections of declared U.S. facilities when consent has been withheld. Both of these warrants must be issued by a Federal judge—either a U.S. District Court judge or a U.S. magistrate judge.

Condition 28 was reached through the combined efforts of the majority leader, Senator HELMS, the administration and myself. It represents a significant concession by the administration, as the Constitution does not require administrative warrants in cases of highly-regulated industries. Condition 28 reflects the executive branch's confidence that any challenge inspection mounted in the United States will, indeed, be based on sufficient evidence to justify a criminal search warrant.

I want to compliment the majority leader, in particular, for his efforts on condition 28. I would certainly hope that the concessions he obtained from the administration on this major issue would reassure him that the CWC's important contributions to the national security will be achieved without any violation of people's constitutional rights or any undue costs or harm to U.S. persons.

Condition 12 makes clear that nothing in the CWC requires or authorizes anything that is prohibited by the U.S. Constitution, as interpreted by the United States. No administration would agree to a treaty that violated the constitution, no treaty ever takes precedence over the constitution, and only the United States interprets our Constitution. The administration is quite willing, therefore, to accept a condition stating these facts.

RIOT CONTROL AGENTS

Concerns were raised that the administration planned to amend Executive Order 11850 of 1975 to prohibit the use of tear gas in times of war to rescue downed pilots and to fend off attacks by combatants using civilians as human shields. Condition 26 has been added to lay this concern to rest.

Pursuant to condition 26, the President is prohibited from taking any action to alter or eliminate Executive Order 11850 of 1975. In other words, all uses of tear gas by U.S. Armed Forces that are permitted today—including rescuing of downed pilots and against combatants when they use civilians to shield attacks—will continue to be permitted after the CWC enters into force.

In addition, condition 26 makes clear that nearly all uses of riot control agents in peacekeeping operations will be permitted. The sole exception to that permission would be in the most unlikely case that the U.S. role in a peacekeeping operation reached such a military scope and duration that the laws of war would pertain to it.

TRANSFER OF CHEMICAL WEAPONS DEFENSES

Some opponents of CWC have asserted that article X of the convention would require the United States to provide financial assistance and equipment to countries such as Iran and Cuba in order to improve their chemical weapons defense capabilities. This is an understandable misconception of paragraph 7 of article X, which states that "each state party undertakes to provide [such] assistance through the organization." Paragraph 1 of article X defines "assistance" to include "detection equipment and alarm systems, protective equipment; decontamination equipment and decontaminants; medical antidotes and treatments; and advice on any of these protective measures."

The rest of paragraph 7 of article X makes clear, however, that each state party is not required to provide all such assistance. A state party may contribute to a voluntary fund for assistance, or agree to provide assistance through the OPCW on demand, or simply declare what assistance it might provide in response to an appeal by the OPCW. So CWC does not compel the United States to give any country, let alone an enemy like Cuba, anything more than medical assistance or advice.

The Senator from North Carolina has proposed in condition 15 that the Senate bind the executive branch not to provide anything more than medical antidotes and treatment to a rogue state pursuant to article X of the convention. While there is no real need to so bind the executive branch, this proposal is certainly consistent with current administration policy. As such, it may usefully allay the suspicions that article X has aroused in some quarters, and is therefore worth supporting.

MAINTAINING STRINGENT EXPORT CONTROLS

Some opponents of the CWC see article XI of the convention as requiring the Australia group—an informal alliance of potential supplier states—to relax its export controls, which are a bulwark of nonproliferation. I have never shared that concern, because the Australia Group has steadfastedly told the world that it viewed its export control regime to be fully consistent with the CWC. Nevertheless, condition 7 has been added to reassure those who worry that the Australia Group would be hobbled by the CWC.

Pursuant to condition 7, the President must certify that he has obtained authoritative assurances from all other Australia Group members that they

agree with the United States view that the CWC will not weaken any Australia Group controls—and these assurances have, in fact, been received. In addition, the President is required to do what it takes to prevent any backsliding in the years to come. If the Australia Group is weakened, the President will be required to consult with the Senate for the purposes of obtaining a resolution of continued adherence to the CWC.

PROTECTING THE SENATE'S PREROGATIVES

Senators on both sides of the aisle wish to preserve the Senate's constitutional role in treaty-making. Several conditions address this issue.

Condition 1 asserts that the Senate reserves the right to add reservations to the resolution of ratification, despite the ban—in article XXII of the convention—on reservations to the convention. This condition asserts the Senate's right under the U.S. Constitution, but does not exercise it. It requires the administration to inform all other states parties that the Senate reserves the right to give its advice and consent to ratification of the convention subject to reservations. Although the Senate has not exercised this right at this time, it could do so in ratifying future amendments to the convention; this condition puts all parties on notice.

If the United States decided not to cast its vote—one way or another—on a proposed CWC amendment at an amendment conference under the convention, it would be possible for such an amendment to be passed without a vote in the Senate. So condition 6 will bind the executive branch to vote on every proposed CWC amendment and to submit any amendment to the Senate for its advice and consent.

As explained in the discussion of condition 1, the CWC includes a provision barring states parties from attaching reservations to their ratification of the convention. A sense-of-the-Senate condition warns U.S. negotiators that they should not include such provisions in any future treaty.

The Biden condition on treaty interpretation, which has been attached to all arms control treaties since the INF treaty was approved in 1988, is reaffirmed in condition 24. It states the constitutionally-based principle that the shared understanding that exists between the executive branch and the Senate about the terms of the treaty at the time the Senate gives advice and consent to ratification can be altered only subject to the Senate's advice and consent to a subsequent treaty or protocol, or the enactment of a statute.

Another condition is included which has been attached to major arms control treaties in recent years, setting forth the Senate position that any international agreement that would obligate the United States to limit its forces in a militarily significant way will be considered by the Senate only pursuant to article II, section 2, clause 2 of the Constitution. This is condition 25.

Condition 20 also purports to preserve the rights of the Senate, by asserting the sense of the Senate that the United States should not be denied its vote in OPCW organs if Congress fails to appropriate the full amount of funds assessed to the United States.

It should be noted that although paragraph 8 of article VIII of the convention allows the Conference of States Parties to permit a state party to retain its vote if the conference is satisfied that the state's arrears are due to conditions beyond the control of the state party, this is clearly a decision left to the states parties acting in that conference.

I sincerely doubt that any international body will see the actions of Congress as conditions beyond the control of the United States, although sometimes the American people may sympathize with that concept. Condition 20 merely states the nonbinding sense of the Senate, however, so it does no harm.

FOREIGN POLICY CONSIDERATIONS

Some people are concerned that the CWC has been oversold as a defense against the use of chemical weapons by terrorist groups. The Senator from North Carolina proposes, therefore, condition 19, by which the Senate will find that the CWC would not have stopped the Aum Shinrikyo Group in Japan and that future terrorist groups will likely seek chemical weapons. Both of these statements are probably quite accurate, and no harm is done by attaching them to the resolution of ratification.

Condition 8 deals with the matter of so-called negative security assurances. Despite the fact that the United States decided long ago to destroy its chemical weapons stockpile, some are concerned that one impact of the CWC will be to undermine the ability of the United States to adequately retaliate against a state that used chemical weapons against us, if that state has received U.S. assurances to non-nuclear weapons states that the United States will not be the first to use nuclear weapons against them—Such assurances are known as negative security assurances—This condition requires the administration to submit a classified report on the impact of this new reality upon U.S. retaliatory options in such a case and upon the whole policy of negative security assurances.

U.S. CHEMICAL WEAPONS DESTRUCTION

Condition 27 is the result of negotiations between the administration and the senior Senator from Kentucky. It is an important effort to ensure citizens concerned about the environment that the United States will do all it can to select the safest methods for the destruction of our own stockpile of chemical weapons.

Condition 27 assures that the United States will be able, under CWC, to give full consideration to alternatives to incineration as the means to destroy U.S. chemical weapons pursuant to the convention. Since alternative means may be feasible only if we take the full time allowed by the CWC, which is more than the time allotted under current U.S. law, this condition states that the CWC time allotment may supersede that in section 1412 of Public law 99–145.

Mr. President, this has been a lengthy explanation of what we are accepting in the 28 agreed conditions to the resolution of ratification. It is lengthy for a good reason: because the senior Senator from North Carolina and I have truly reached many elements of agreement, and because several of those agreements are truly significant. In addition, given the absence of a report from the Foreign Relations Committee, this statement is intended to create some legislative history for the 28 conditions on which the Senator from North Carolina and I have agreed.

It is my sincere belief, Mr. President, that the adoption of these 28 agreed conditions, will answer many of the most vexing concerns that have been raised by Members who find it difficult to decide how to vote on advice and consent to ratification. I hope that my colleagues will study carefully how much we have achieved.

I trust they will understand that the remaining issues are ones on which we cannot accept the proposed conditions without killing U.S. ratification of the convention or seriously impeding its implementation. And finally, I urge my colleagues, in light of what we have accomplished thus far, to take the culminating step and support final passage of this historic resolution.

Mr. KYL. Mr. President, to explain to the colleagues what is going to happen next, we are going to conclude debate this evening on the Chemical Weapons Convention and then reinitiate it tomorrow.

We will begin tomorrow with the closed session which will be a 2-hour closed session in the Old Senate Chamber, and thereafter resume debate, including the motions to strike.

UNANIMOUS-CONSENT AGREEMENT

Mr. KYL. Mr. President, I have a unanimous-consent request that has been cleared on both sides. I ask unanimous consent that 1 hour of the 2 hours devoted to the closed session not be counted against the 10-hour debate time as provided in the consent agreement.

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

MORNING BUSINESS

Mr. KYL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning

business with Senators permitted to speak for up to 5 minutes each.

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

PUTTING FAMILIES FIRST: 100 DAYS PAST DUE AND COUNTING

Mr. DASCHLE. Mr. President, over the past months South Dakota has suffered some of the worst disasters in recent memory. The drifts of snow that have paralyzed our State and killed over 100,000 cattle are at last melting, but their runoff has swelled our lakes and rivers to overflowing and forced thousands to evacuate in the face of devastating floodwaters. Only the hard work of South Dakotans, building dikes and filling sandbags to save the homes of their friends and neighbors, has prevented the serious disaster we are facing from having more catastrophic consequences.

I am also proud to say that during these disasters, our bipartisan elected leadership has set politics aside and worked together for the good of our State. Our Democratic President, our Republican Governor, our entire congressional delegation, and every local leader have made overcoming the disaster our first priority. As Governor Bill Janklow of South Dakota stated, "There is no way that Republican or Democrat politics should come into play when we are dealing with the things that are vital to all the people of this State." Together, we believe that meeting the needs of our families and our communities should always come first.

This philosophy has served South Dakota well during its time of need, and I am convinced that what has worked in South Dakota can work here in Washington. Recently, we passed the 100th day of this Congress. Since we began this session, 14 million children attended classes in schools that are falling apart, 180,000 babies were born without health care coverage and 51 million workers labored without a pension plan. Unfortunately, this Congress has accomplished nothing to meet these dire needs. It is now time to make good on our pledges of cooperation. Just as South Dakotans have joined together for the good of our State, we in Congress must join together for the good of our country and deliver much-needed relief to America's working families.

On the first day of the 105th Congress, I introduced bills to enact the Families First Agenda to raise the incomes of working families, extend affordable health coverage to children, expand the retirement benefits of workers, and make it easier for students of all ages to receive a quality education. Now it is time to roll up our sleeves and get to work. I urge my colleagues to join with me to support America's families. Every day we wait is another day they struggle to make ends meet.

Mr. President, I would like to bring to the attention of my colleagues a very important letter I received from Kym Pacheco, a resident of Sioux Falls, SD. It is a heartbreaking letter, and it tells the story of working families better than any words of mine. Despite a 105-hour work week as a truck driver, Kym's husband earns just enough for the family to get by. Each month they struggle to pay their rent and the grocery, gas, and phone bills. "Mind you," she writes, "none of this includes car repairs, school supplies, clothes, medications, or car insurance. There are no luxuries—week-end vacations, a nice car, trips to McDonald's. What we wouldn't do to be able to take our son to the Black Hills for a week! . . . But we cannot put any money into the savings. We literally live paycheck to paycheck!"

Mr. President, no one in our Nation who works 105 hours a week should live one paycheck away from an empty stomach or a missed rent payment. Families like Kym's work hard but cannot get ahead, and they fear for the future of their children. They have faith that life can be better, but they are depending upon us to give them the help they need. We cannot let them down. As Kym continues, "There are so many problems in the U.S., but I honestly believe that when our government starts passing laws that actually give families affordable, decent coverage health insurance, decent wages, tax breaks for poor and middle class working families, our country will become better. It would be a start! Our children deserve an opportunity to live better than we did!"

Mr. President, her children do deserve that opportunity, and we can give it to them. Let us accept Kym's challenge. If we put the interests of working families before party politics, we can provide working families with tax breaks for education and ensure that parents can afford to take their children to the doctor. We can ensure that in future years when Kym's children retire they will have financial security. All of this is in our power, but to meet our goal we must work together. I hope my colleagues will join me in this task.

COMMENDING VOLUNTEERS ON THE FLOOD RELIEF EFFORT

Mr. BYRD. Mr. President, I want to highlight the commendable effort displayed by the legion of West Virginia volunteers who have done so much to help their neighbors and communities affected by last month's flooding in sixteen West Virginia counties. Their selfless dedication to neighbors in need is in the finest West Virginia tradition of community spirit and support.

The efforts of volunteers from the Fire and Rescue Departments throughout the affected area are especially noteworthy. These heroic workers rescued numerous families and individuals trapped by the raging flood waters that swept through my beloved state. You may recall some of the harrowing events displayed on television news, particularly from those hardest hit counties of Kanawha, Cabell, and Wirt. Also working during the storms and in their destructive aftermath, utility employees labored long hours in driving rain and deep mud to restore electricity, gas, water, and sewer service to the affected communities.

Mr. President, churches have always sustained the people of West Virginia, and never more so than when disaster strikes. Aside from providing physical sustenance to the affected residents, the community churches that dot our hills and hollows have also provided flood victims with moral and spiritual comfort to ease the pain of all that has been lost. Particularly hard hit in this flood, the people of Clendenin have received extensive and much-needed support from churches, neighbors, and other charitable organizations. After all of the floods of last year, it is uplifting to see that such strong community spirit yet endures among the Mountaineers of West Virginia. This year, as in previous years, volunteers, churches, and organizations like the Red Cross have risen above the flood waters of disaster to provide comfort and hope to their neighbors. I am reminded of the words of poet, essayist, and critic Matthew Arnold:

Then, in such hour of need
Of your fainting, dispirited race,
Ye, like angels, appear,
Radiant with ardour divine!
Beacons of hope, ye appear!
Langour is not in your heart,
Weakness is not in your word,
Weariness not on your brow.

Surely, the concerned faces and helping hands of volunteers and church workers seemed divinely inspired to the flood victims who benefited from their tireless efforts. Mr. President, I offer my thanks to all of those individuals, congregations, and charitable organizations who respond with such compassion and energy when disaster strikes.

RETIREMENT OF DR. SHELDON HACKNEY AS CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. KENNEDY. Mr. President, earlier this week Sheldon Hackney, chairman of the National Endowment for the Humanities, announced that he would be leaving office and returning to teaching at the end of his term of office in August. Dr. Hackney came to the endowment in 1993, following a brilliant academic and administrative career, including service as president of the University of Pennsylvania.

News of his retirement saddens all of us who know what a superb job he has done at the endowment for the past 4 years. Perhaps his most notable achievement has been in taming the intense political controversies that were swirling around the endowment when he arrived. The controversies persist, but fortunately, they are muted because of his leadership. The endowment has earned new bipartisan support because of the effective way he has explained its important mission to liberals and conservatives alike. He will be greatly missed, but I wish him well.

Asked about his views on eliminating the endowment, Dr. Hackney responded with characteristic eloquence,

The only legitimate argument against continuing it is from someone who believes in a minimalist government, that government shouldn't be in culture at all. The endowment does things that no one else would do but need to be done if we are to remember who we are and what the heritage of our nation is.

I ask unanimous consent that an article from the New York Times about Dr. Hackney may be printed at this point in the RECORD. The humanity of the man shines through, and through him the humanities endowment has shone through as well.

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

[From the New York Times, Apr. 21, 1997]

CHAIRMAN TO LEAVE HUMANITIES ENDOWMENT

(By Irvin Molotsky)

WASHINGTON, April 21.—Sheldon Hackney, who has led the National Endowment for the Humanities during a period of reduced budgets, told the White House today that he would not seek another term as chairman and would return to the University of Pennsylvania to teach history.

Mr. Hackney, who stepped down as president of Penn to come to Washington four years ago, said today that he had planned all along to step down when his four-year term expired in August.

"I never discussed it with the White House," he said, "but I'm sure I could have stayed."

The endowment, which provides Federal money for research and exhibitions on history and other scholarly pursuits, has been less of a lightning rod for fiscal conservatives than its counterpart, the National Endowment for the Arts. But it has been bracketed with the arts endowment as the target of spending cuts and its budget has been reduced in recent years.

When asked about his disappointments as chairman, Mr. Hackney said: "The political situation changed, and I had to spend more time than I wanted telling the public and Congress what we do. I could have spent that time on programs."

The change in the political situation that Mr. Hackney spoke of was the Republican takeover of Congress in 1994, when many opponents of Federal spending for the arts and humanities were elected to the House and Senate.

Spending for the humanities endowment has fallen from a high of $172 million in 1993 to $110 million in the current budget. President Clinton has asked for $136 million for next year, but Congress is unlikely to approve that much.

"Despite the turbulence of the times," Mr. Hackney said, "I feel very good. We've accomplished a lot."

Besides keeping the endowment alive, Mr. Hackney said, his accomplishments include making the endowment nonpolitical and nonideological, reversing a pattern that he said took hold during the Reagan and Bush Administrations.

Asked to provide a defense for continuing the endowment, Mr. Hackney said: "The only legitimate argument against continuing it is from someone who believes in minimalist government, that government shouldn't be in culture at all. The endowment does things that no one else would do but need to be done if we are to remember who we are and what the heritage of our nation is.

"One of the purposes of government is to create good citizens. That's what we do at the N.E.H. We are a democratizing force in American culture."

Representative Sidney R. Yates, Democrat of Illinois, an advocate of both endowments who was chairman of the House committee that approved their financing when the Democrats were in the majority, said he thought Mr. Hackney has succeeded in removing the endowment from partisan politics.

"We'll miss him," Mr. Yates said. "I think he's been very good. He's been a very good administrator of the humanities endowment at a difficult time with less money."

Representative Ralph Regula, Republican of Ohio, who is chairman of the appropriations panel Mr. Yates once led, said of Mr. Hackney, "I think he's worked hard at giving the N.E.H. good leadership, especially in the field of libraries."

Asked whether Mr. Hackney had kept politics and ideology out of the endowment, Representative Regula said, "He has been very successful in that regard." He added, however, that he thought Mr. Hackney's Republican predecessors had also kept partisanship out.

A Republican critic of the endowment, Representative John T. Doolittle, a Californian, said it spent money on unneeded programs, money that could be better used "to save Medicare from bankruptcy and balance the budget."

"If there were ever a Federal agency or program that deserves a trip to the chopping block, it is this sandbox for the cultural elite," Mr. Doolittle said.

Mr. Regula did not agree with his Republican colleague. "I think it will survive in some form or another," he said. "I think the preservation of the culture of society is important."

Mr. Hackney said the endowment had supported many good projects without getting much credit for it, like providing some of the money for public television programs on Theodore Roosevelt and the American West.

"The public doesn't normally notice who is funding projects," he said. "People say: 'Oh, my goodness. Did you do that?'¿¿"

Mr. Hackney, an Alabamian, said that at Penn he would return to one of his great interests by teaching a course on the history of the South.

When he was named chairman of the endowment, Mr. Hackney was succeeded by Judith S. Rodin as university president.

"I'm going to teach history and stay out of her way," Mr. Hackney said.

SENATE IMMIGRATION SUBCOMMITTEE ANALYSIS OF 1996 INS LEGAL IMMIGRATION NUMBERS

Mr. ABRAHAM. Mr. President, yesterday, the Immigration and Naturalization Service [INS] officially released its legal immigration numbers for 1996. Attached please find an analysis by the staff of the Senate Immigration Subcommittee that helps place these numbers into context.

The analysis finds:

First, the 1996 increase in immigration is not part of a long-term rise in legal immigration but rather a temporary increase.

Second, many additional people being counted as immigrants in 1996 and 1997 were not new entrants but were already physically in the country as the spouses of those who received amnesty under the law signed by President Reagan in 1986.

Third, the increase is due largely to INS processing delays that caused many people who would have been counted as immigrants in 1995 to be counted in 1996.

Fourth, after a 20-percent decline between 1993 and 1995, this short-term increase in legal immigration numbers is expected to be followed by another decline to previous levels within 2 to 3 years.

And finally, in historical terms, legal immigration is moderate when measured as a percentage of the U.S. population—0.3 percent—the most accurate measurement of immigrants' economic and demographic impact. Numerically, legal immigration in 1996 was below the level recorded on 10 other occasions since 1904.

As chairman of the Senate Immigration Subcommittee, I hope this analysis sheds light on the legal immigration numbers released yesterday by INS. I ask unanimous consent that the Senate Immigration Subcommittee's analysis of the 1996 INS legal immigration numbers be included in the RECORD. Mr. President, I yield the floor.

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

SENATE IMMIGRATION SUBCOMMITTEE ANALYSIS

1996 INS LEGAL IMMIGRATION INCREASE PART OF A TEMPORARY RISE FOLLOWED BY DECREASE TO PREVIOUS LEVELS; '86 AMNESTY, INS PROCESSING DELAYS IN '95 LED TO RISE

WASHINGTON.—The Immigration and Naturalization Service (INS) today officially released its legal immigration numbers for 1996. Attached please find an analysis by the staff of the Senate Immigration Subcommittee that helps place these numbers into context.

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country as the spouses of those who received amnesty under the law signed by President Reagan in 1986.

The increase is due largely to INS processing delays that caused many people who would have been counted as immigrants in 1995 to be counted in 1996.

After a 20 percent decline between 1993 and 1995, this short-term increase in legal immigration numbers is expected to be followed by another decline to previous levels within two to three years.

In historic terms, legal immigration is moderate when measured as a percentage of the U.S. population (0.3%)—the most accurate measurement of immigrants' economic and demographic impact. Numerically, legal immigration in 1996 was below the level recorded on 10 other occasions since 1904.

AN ANALYSIS OF THE 1996 INS LEGAL IMMIGRATION NUMBERS

PREPARED BY THE STAFF OF THE SENATE SUBCOMMITTEE ON IMMIGRATION—APRIL 1997

Summary: Between 1993 and 1995, the level of legal immigration declined by 20 percent. An analysis performed by the Senate Subcommittee on Immigration has determined that the increase in immigration reported by the INS for 1996 is part of a temporary trend and that the overall immigration numbers are projected to decline again within three years. The analysis shows that legal immigration is projected to plateau potentially in 1997, but more likely in 1998 or the following year according to the latest INS projections—and then to fall. Simply put, the 1996 increase from 1995 is not part of a long-term rise in legal immigration.

The subcommittee analysis shows that the approximately 27 percent increase in legal immigration in 1996, from 720,461 in 1995 to 915,900 in 1996, is explained by three factors: (1) INS processing delays in 1995 that led immigrants to be counted in 1996, rather than in 1995; (2) The aftermath of the 1986 Amnesty signed by President Reagan, which has enabled formerly undocumented immigrants to sponsor their spouses and children; and (3) the result of unused employment visas in 1995 that on a one-time basis boosted 1996's available total for family preference visas.

The 1996 immigration rate is lower than every year in the nation's history between 1840 and 1930, actually one-third the rate for many of those years, and lower even in absolute terms than near the turn of the century. By the most accurate measure of immigrants' demographic and economic impact on America—the annual immigration total as a percentage of the U.S. population—legal immigration remains moderate in historical terms at only 0.3 percent of the populace.

BACKGROUND ON THE LEGAL IMMIGRATION SYSTEM

Immigration categories are numerically restricted for family and business, with the sole exception being the "immediate relatives" of U.S. citizens, whose totals changed little between 1986 and 1995. Their totals have risen over the last year, but their rise is part of a short term confluence of factors that is expected dissipate within the next two to three years. Under U.S. law, an American citizen can petition for (1) a spouse or minor child, (2) a parent, (3) a married child or a child 21 or older, or (4) a brother or sister. A lawful permanent resident (green card holder) can petition only for a spouse or child. [1] There are no "extended family" categories for aunts or uncles in the U.S. immigration system. Approximately three-quarters of all family immigration visas went to the spouses and children categories in 1996. The other one-fourth went to the parents and sibling of U.S. citizens. In addition, up to 140,000 people a year can immigrate with employment-based visas. Refugees are admitted after entering the country following the annual consultative process by which Congress and the President set each year's refugee totals. Finally, there are a limited number of "diversity" visas distributed to immigrants from "underrepresented" countries. In the immigration system as a whole, no country may receive more than 7 percent of the total visas allotted in a given year, although an exception is made for the spouses and children of lawful permanent residents. [2]

LEGAL IMMIGRATION IS PROJECTED TO PLATEAU AND THEN DECLINE

The analysis performed by the staff of the Senate Subcommittee on Immigration leads to one overarching conclusion: The 1996 increase in immigration is not part of a long-term rise in legal immigration but rather a temporary increase.

The conclusion that legal immigration will fall after a temporary two- to three-year bump upwards is already part of the public record. At a May 16, 1996 hearing before the House Subcommittee on Immigration and Claims, Susan Martin, executive director of the U.S. Commission on Immigration Reform, stated, "As the INS figures released on April 25 show, immigration levels will increase, without any change in current law, for the next two years and then return to approximately the level of last year." [3] [Emphasis added.] The 1995 total was 720,461, well below the 1996 total.

1. Processing Delays Artificially Inflate 1996 Totals

At the same hearing, House Immigration and Claims Subcommittee Chair Lamar Smith (R–TX) correctly pinpointed the primary reason that legal immigration was expected to rise from 1995 to 1996. He stated, "The FY 1995 figures were artificially low. An administrative logjam prevented the issuance in 1995 of immigrant visas to tens of thousands of individuals who were eligible to receive them and to be admitted immediately to the United States. This logjam resulted from delays in processing applications for green cards under section 245(i) of the Immigration and Nationality Act, a new provision that was effective for the first time in 1995." [4]

As Rep. Smith pointed out, a new procedure that allowed people to obtain green cards in the United States rather than having to travel to a consulate in their home countries significantly increased processing at INS offices in 1995 and caused delays. Those delays caused at least tens of thousands of people who would have been counted as immigrants in 1995, to be counted in 1996 instead. In other words, the 1996 increase is in many ways a bookkeeping phenomenon. As Figure 2 illustrates, when one smooths out the one-year blips in 1995 processing and other one-time anomalies and instead uses two-year averages, the data show that since 1990 the general direction in immigration has been downward.

2. The Aftermath of the Amnesty Artificially Increased 1996 Totals: Many People Newly Counted Were Already in the Country

The years 1989, 1990, and 1991 were artificially high because of the amnesty of undocumented immigrants signed into law by President Ronald Reagan under the Immigration Reform and Control Act of 1986. Yet it is equally true that much of the increase we have seen in annual immigration totals since those years are also a result of that amnesty.

That brings us to an important point that illustrates why many of those included in the 1996 increase do not represent an increase in new people physically entering the United States. In other words, many additional people being counted as immigrants for the period 1996–1999 are already here.

Here is what happened as a result of the 1986 law: When Congress granted amnesty to undocumented immigrants, it made no additional visas available for close relatives of the amnesty recipients, which eventually created a large backlog in the category. Between 1986 and 1990, the INS adopted the administrative policy of not deporting those relatives and allowing them to obtain work authorization. In 1990, Congress provided 55,000 visas a year to help these spouses and children gain permanent residence and to remain lawfully under Family Unity. Therefore, the spouses and children of many immigrants legalized by the amnesty have been waiting for their green cards while living with their sponsors in the United States. Amnesty recipients have now completed their five years of permanent residence required to apply for citizenship. Now that those formerly illegal immigrants are becoming citizens, under the law they can gain visas immediately for their spouses and children without a waiting list, since the spouses and children would be the immediate relatives of U.S. citizens (and there is no quota on the immediate relatives of U.S. citizens). In essence, that means that much of the increase in immigration in 1996 and 1997—most of which is in the category for the immediate relatives of U.S. citizens—will be the INS handing out green cards to spouses and children already physically here. It is that accounting phenomenon that will disappear after a few years.

3. One Additional Factor: Unused Employment Visas

Another reason for the 1996 increase is the combination of the lower immediate relatives total, which is related to the INS processing delays, and unused employment visas from 1995. Under U.S. law, if the number of immediate relatives of U.S. citizens does not exceed a certain level (in practice 254,000), then the unused employment visas from that year are added to the next year's total of family preference visas. In 1996, that made 85,000 more immigrant visas available to the family preference categories. Under the law, all of those additional visas went to the spouses and children of lawful permanent residents. However, the way the law operates, those additional visas will not be available in 1997 (because immediate relative immigration in 1996 was above 254,000.) The U.S. State Department has calculated that family preference visas will decline from 311,819 in 1996 to 226,000 in 1997, a drop of 27 percent. [5]

Figure 1 (on page 1), based in part on INS projections, shows that after a plateau is reached potentially in 1997, but more likely in 1998, legal immigration is projected to decline again. The latest information from the INS indicates that 1998 may be the peak year. It is possible that due to INS processing and naturalizations we will find that 1999 is the high point. Most important, however, is that these numbers will decline after this short-term rise. Note that the INS projections in Figure 1 did not take into account the impact of the income and sponsorship requirements passed under the 1996 immigration bill. Those new requirements are expected to have at least some effect in reducing legal immigration, particularly among spouses and children, that is not reflected in the INS projections.

IN HISTORICAL TERMS, LEGAL IMMIGRATION REMAINS MODERATE

As a percentage of the U.S. population—the most accurate measurement of the impact of immigration—legal immigration is moderate by historical standards. The annual rate of legal immigration in 1996 equaled just 0.3 percent of the U.S. population—less than one-third the rate near the turn of the century and lower than every year in the nation's history between 1840 and 1930. Even in absolute terms, the 1996 total is less than the annual totals near the turn of the century when America was smaller and less economically developed, and therefore less capable of absorbing new people than it is today. Numerically, legal immigration in 1996 was below the level recorded in 10 other occasions since 1904.

CONCLUSION

Our legal immigration system is based on America's historical commitment to immigration and to the principle that it is sound public policy to unite close family members, help employers sponsor needed employees, and provide humanitarian relief for those fleeing religious or political persecution. While numbers are a part of the system, it is important that we understand what the numbers mean and approach them with a minimum of rhetoric, but rather with a premium on intelligent debate.

Ben Wattenberg of the American Enterprise Institute describes the current level of immigration using this illustration: Imagine you are in a giant ballroom where 1,000 people are gathered for a Washington cocktail party. Champagne is being poured, waiters are carrying trays of hors d'oeuvers, and into the room walk three more people. Those three people represent the proportion of the U.S. population that immigrants add each year. There is little evidence these immigrants are spoiling the party.

FOOTNOTES

[1] INA Sections 201 and 203.

[2] INA Section 202(a)(1) states that the "total number of immigrant visas made available to natives of any single foreign state . . . may not exceed 7 percent" in a fiscal year. Under the law, 75 percent of the visas for the spouses and children of lawful permanent residents are not subject to the 7 percent ceiling.

[3] Statement of Susan Martin, Executive Director, U.S. Commission on Immigration Reform, Subcommittee on Immigration and Claims, U.S. House of Representatives, May 16, 1996.

[4] Opening Statement, Chairman Lamar Smith, "Projected Increases in Legal Immigration," Hearing Before the House Subcommittee on Immigration and Claims, May 16, 1996, p. 3.

[5] Immigrant Visa Control and Reporting Division, U.S. Department of State, "Various Determinations of Numerical Limits of Immigrants Required Under the Terms of The Immigration and Nationality Act as Amended by the Immigration Act of 1990," for FY 1996 and FY 1997. Under the law, a minimum of 226,000 family preference visas are available each year.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 22, 1997, the Federal debt stood at $5,340,281,332,685.87. (Five trillion, three hundred forty billion, two hundred eighty-one million, three hundred thirty-two thousand, six hundred eighty-five dollars and eighty-seven cents)

One year ago, April 22, 1996, the Federal debt stood at $5,101,586,000,000. (Five trillion, one hundred one billion, five hundred eighty-six million)

Five years ago, April 22, 1992, the Federal debt stood at $3,889,360,000,000. (Three trillion, eight hundred eighty-nine billion, three hundred sixty million)

Ten years ago, April 22, 1987, the Federal debt stood at $2,271,567,000,000. (Two trillion, two hundred seventy-one billion, five hundred sixty-seven million)

Fifteen years ago, April 22, 1982, the Federal debt stood at $1,058,288,000,000 (One trillion, fifty-eight billion, two hundred eighty-eight million) which reflects a debt increase of more than $4 trillion—$4,281,993,332,685.87 (Four trillion, two hundred eighty-one billion, nine hundred ninety-three million, three hundred thirty-two thousand, six hundred eighty-five dollars and eighty-seven cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING APRIL 18

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending April 18, the U.S. imported 7,984,000 barrels of oil each day, 684,000 barrels more than the 7,300,000 imported during the same week a year ago.

Americans relied on foreign oil for 55.5 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,984,000 barrels a day.

RECOGNITION OF HOME EDUCATION IN MISSOURI

Mr. ASHCROFT. Mr. President, I rise today to congratulate home schoolers in Missouri who are celebrating Missouri Home Education Week, May 4–10, 1997. As a parent and former teacher, I understand the vital importance of sound education in a child's development. The opportunities for students who achieve educational excellence are virtually limitless.

As a U.S. Senator I fully recognize that the character and productivity of our Nation are directly linked to the quality of education provided to America's youth. Throughout my career in public service, I have been pleased to support the efforts of home schoolers to provide quality education.

Home educators in Missouri are making an extra effort to give their children the best chance for success in an ever-changing society. They recognize the importance of family and judge home schooling to be the educational setting that is most appropriate. By personally guiding the scholastic endeavors of their children, home educators ensure that all facets of a child's development are considered when preparing them to become active, productive, and responsible citizens.

In Missouri, home education has enjoyed considerable success in recent years because of the tremendous support received from citizens all across the State who realize the significance of family participation in the educational process. Furthermore, Missouri home schoolers are establishing one-on-one relationships with adult role models and mentors who enrich home education learning by providing hands-on business experience. This exposure to the marketplace allows home schoolers the opportunity to interact with business, community, and civic organizations.

I commend the achievement realized by home schools in the State of Missouri and applaud your noble work on this special observance of Home Education Week in Missouri, May 4–10, 1997.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1619. A communication from the Commissioner of the Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Labor and Human Resources.

EC–1620. A communication from the Assistant Secretary for Labor for Occupational Safety and Health, transmitting, pursuant to law, a rule entitled "Abatement Verification" (RIN1218–AB40) received on March 31, 1997; to the Committee on Labor and Human Resources.

EC–1621. A communication from the Acting Secretary of Labor, transmitting, pursuant to law, a report relative to alternative tax proposals; to the Committee on Labor and Human Resources.

EC–1622. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the Orphan Products Board for calendar years 1993 through 1995; to the Committee on Labor and Human Resources.

EC–1623. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled "Individual Market Health Insurance Reform" (RIN0938–AH75) received on April 10, 1997; to the Committee on Labor and Human Resources.

EC–1624. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, three rules including a rule entitled "Research in Education"; to the Committee on Labor and Human Resources.

EC–1625. A communication from the Secretary of Education and the Secretary of the Treasury, transmitting jointly, a draft of proposed legislation entitled "The Hope and Opportunity for Postsecondary Education Act of 1997"; to the Committee on Labor and Human Resources.

EC–1626. A communication from the Chief Executive Officer of the Corporation For National Service, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1627. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1628. A communication from the Postmaster General of the U.S. Postal Service, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1629. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1630. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1631. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1632. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1633. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1634. A communication from the Director of the Office of Science and Technology Policy, Executive Office of the President, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1635. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1636. A communication from the Attorney General, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on the Judiciary.

EC–1637. A communication from the Secretary of the U.S. Naval Sea Cadet Corps, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on the Judiciary.

EC–1638. A communication from the Attorney General, transmitting, pursuant to law, the annual report of the Federal Prison Industries for fiscal year 1996; to the Committee on the Judiciary.

EC–1639. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on the Judiciary.

EC–1640. A communication from the Executive Director of Government Affairs, Non Commissioned Officers Association of the United States of America, transmitting, pursuant to law, the annual report for calendar year 1995 and 1996; to the Committee on the Judiciary.

EC–1641. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of enforcement activities for fiscal year 1995; to the Committee on the Judiciary.

EC–1642. A communication from the President of the Foundation of the Federal Bar Association, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on the Judiciary.

EC–1643. A communication from the Director of the Federal Bureau of Investigation, transmitting, pursuant to law, a rule entitled "Implementation of Section 109" (RIN1105–AA39) received on April 7, 1997; to the Committee on the Judiciary.

EC–1644. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report relative to refugee resettlement for fiscal year 1995; to the Committee on the Judiciary.

EC–1645. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the reports of amendments adopted by the Court; to the Committee on the Judiciary.

EC–1646. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, three rules including a rule entitled "The Establishment of Preregistered Access Lane Program" (RIN1115–AE80, AD89, AC72); to the Committee on the Judiciary.

EC–1647. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, two rules including a rule entitled "Transfer of Inmates" (RIN1120–AA53, AA33); to the Committee on the Judiciary.

EC–1648. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation entitled "The Federal Bureau of Investigation Leave Sharing Reform Act of 1997"; to the Committee on the Judiciary.

EC–1649. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation entitled "The Radiation Exposure Compensation Improvement Act of 1997"; to the Committee on the Judiciary.

EC–1650. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Bureau of Justice Assistance for fiscal year 1995; to the Committee on the Judiciary.

EC–1651. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the report of settlements for calendar year 1996; to the Committee on the Judiciary.

EC–1652. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report on the Police Corps; to the Committee on the Judiciary.

EC–1653. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report on the impact of the Public Safety and Recreational Firearms Use Protection Act of 1994; to the Committee on the Judiciary.

EC–1654. A communication from the Secretary of the Judicial Conference of the United States, transmitting a draft of proposed legislation entitled "The Federal Judgeship Act of 1997"; to the Committee on the Judiciary.

EC–1655. A communication from the Secretary of the Judicial Conference of the United States, transmitting, pursuant to law, a report relative to the uniform percentage adjustment; to the Committee on the Judiciary.

EC–1656. A communication from the Secretary of the Judicial Conference of the United States, transmitting, pursuant to law, a report on the confidentiality of communications between sexual assault victims and their counselors; to the Committee on the Judiciary.

EC–1657. A communication from the Chair of the Physician Payment Review Commission, transmitting, pursuant to law, the annual report for 1997; to the Committee on Finance.

EC–1658. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Medicaid Drug Rebate Program; to the Committee on Finance.

EC–1659. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to enact the health care portions of the President's fiscal year 1998 budget; to the Committee on Finance.

EC–1660. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, three rules including a rule entitled "Duty-Free Store" (RIN1515–AB86, AC09, AC14); to the Committee on Finance.

EC–1661. A communication from the Director of Selective Service, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Finance.

EC–1662. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the report of the Treasury Bulletin for March 1997; to the Committee on Finance.

EC–1663. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, two rules including a rule entitled "Regulations Governing Book-Entry Treasury Bonds, Notes and Bills" received on April 10, 1997; to the Committee on Finance.

EC–1664. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to tax incentives; to the Committee on Finance.

EC–1665. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to tax deductibility; to the Committee on Finance.

EC–1666. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, two rules including a rule entitled "Substantiation of Business Expenses" (RIN1545–AT98, AV05); to the Committee on Finance.

EC–1667. A communication from the Assistant Commissioner (Examination), Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, three rules including a rule entitled "Maquiladora Industry"; to the Committee on Finance.

EC–1668. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the reports relative to Notices 97–17, 23, 24, 26; to the Committee on Finance.

EC–1669. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the reports relative to Revenue Procedures 97–23, 26; to the Committee on Finance.

EC–1670. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the reports relative to Revenue Rulings 97–13, 16, 17, 18, 21; to the Committee on Finance.

EC–1671. A communication from the Senior Vice President, Communications, Tennessee Valley Authority, transmitting, pursuant to law, the report of statistical summaries for fiscal year 1996; to the Committee on Environment and Public Works.

EC–1672. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report on progress on Superfund implementation for fiscal year 1996; to the Committee on Environment and Public Works.

EC–1673. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, a rule entitled "Determination of Endangered Status for Three Plants" (RIN1018–AC00) received on March 25, 1997; to the Committee on Environment and Public Works.

EC–1674. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a rule entitled "Design Standards for Highways" (RIN2125–AD38) received on April 3, 1997; to the Committee on Environment and Public Works.

EC–1675. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report relative to funding; to the Committee on Environment and Public Works.

EC–1676. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the report of a construction prospectus; to the Committee on Environment and Public Works.

EC–1677. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, a report relative to the Capital Investment and Leasing Program for fiscal year 1998; to the Committee on Environment and Public Works.

EC–1678. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "The Federal Highway Administration's Oversight of the Buy American Program"; to the Committee on Environment and Public Works.

EC–1679. A communication from the Secretary of Commerce, transmitting, a draft of proposed legislation entitled "The Economic Development Partnership Act of 1997"; to the Committee on Environment and Public Works.

EC–1680. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, ten rules received on April 17, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1681. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a report entitled "The Superfund Innovative Technology Evaluation Program for Fiscal Year 1995"; to the Committee on Environment and Public Works.

EC–1682. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule entitled "National Priorities List for Uncontrolled Hazardous Waste Sites" (FRL–5805–2) received on April 15, 1997; to the Committee on Environment and Public Works.

EC–1683. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, two rules including a rule entitled "Danger Zone and Restricted Areas"; to the Committee on Environment and Public Works.

EC–1684. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a recreation day use fee program; to the Committee on Environment and Public Works.

EC–1685. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a deep-draft navigation program for the Port of Long Beach, California; to the Committee on Environment and Public Works.

EC–1686. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a draft of proposed legislation to authorize appropriations for the Commission for fiscal year 1998; to the Committee on Environment and Public Works.

EC–1687. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, eight rules including a rule entitled "Nuclear Power Plant Instrumentation For Earthquakes" (RIN3150–AF37); to the Committee on Environment and Public Works.

EC–1688. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, fifty-one rules including a rule entitled "Approval and Promulgation of Air Quality" (FRL5814–1, 5802–3, 5802–9, 5807–9, 5808–5, 5687–8, 5691–7, 5808–7, 5597–2, 5809–7, 5809–9, 5697–1, 5812–3, 5811–1, 5801–9, 5805–2, 5577–2, 5804–5, 5802–2, 5694–4, 5710–1, 5807–4, 5599–8, 5806–7, 5598–6, 5801–1, 5702–5, 5595–3, 5594–2, 5597–7, 5709–3, 5709–8, 5711–7. 5709–6. 5667–4. 5711–8. 5699–1, 5802–6, 5809–5, 5808–7, 5598–7, 5598–2, 5597–9, 5600–5, 5597–3, 5596–7, 5600–2, 5808–9, 5711–1, 5698–5); to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 631. A bill to provide for expanded research concerning the environmental and genetic susceptibilities for breast cancer; to the Committee on Labor and Human Resources.

By Mr. KOHL (for himself and Mr. WYDEN):

S. 632. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 633. A bill to amend the Petroglyph National Monument Establishment Act of 1990 to adjust the boundary of the monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself, Mr. WARNER, and Mr. BYRD):

S. 634. A bill to amend the Internal Revenue Code of 1986 to deposit in the Highway Trust Fund the receipts of the 4.3-cent increase in the fuel tax rates enacted by the Omnibus Budget Reconciliation Act of 1993, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 635. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged and women-owned business enterprises; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. JEFFORDS, Mr. DEWINE, Mr. DORGAN, Mr. MURKOWSKI, Mr. LEVIN, Mr. THURMOND, Mrs. MURRAY, Mr. WARNER, and Mr. GREGG):

S. 636. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DeWINE:

S. 637. A bill to amend title XVIII of the Social Security Act to continue full-time-equivalent resident reimbursement for an additional one year under medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs; to the Committee on Finance.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 638. A bill to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 act that established the monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself and Mr. ROCKEFELLER):

S. 639. A bill to require the same distribution of child support arrearages collected by Federal tax intercept as collected directly by the States, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. CHAFEE, and Mr. DEWINE):

S. 640. A bill to extend the transition period for aliens receiving supplemental security income or food stamp benefits as of August 22, 1996; to the Committee on Finance.

By Mr. SMITH of New Hampshire (for himself and Mr. SHELBY):

S.J. Res. 26. A joint resolution proposing a constitutional amendment to establish limited judicial terms of office; to the Committee on the Judiciary.

By Mr. WARNER:

S.J. Res. 27. A joint resolution designating the month of June 1997, the 50th anniversary of the Marshall plan, as George C. Marshall Month, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 631. A bill to provide for expanded research concerning the environmental and genetic susceptibilities for breast cancer; to the Committee on Labor and Human Resources.

THE NEW JERSEY WOMEN'S ENVIRONMENTAL HEALTH ACT

Mr. TORRICELLI. Mr. President, today, Senator LAUTENBERG and I are introducing the New Jersey Women's Environmental Health Act. I rise to draw this country's attention to breast cancer and the threat that it faces to all American women. It is estimated that more than one in eight women will be diagnosed with breast cancer in her lifetime. Over 46,000 women will die each year. The American Cancer Society estimates 6,400 new cases of breast cancer in New Jersey in 1997—an estimated 1,800 deaths in this year alone. It is for this reason that I speak today, in an effort to heighten the awareness of breast cancer in our Nation and its possible environmental causes.

Breast cancer in New Jersey is much worse than the rest of the country. New Jersey has the highest breast cancer death rate of any State in the Nation. Overall, New Jersey has an 11 percent higher incidence rate of breast cancer than the national rate. Between 1988–92 New Jersey's rate was 110.8. For the United States the rate was only 105.6. The highest counties include: Warren, 34.8 percent; Morris, 20.7 percent; and Monmouth, 18.5 percent. During this time, 19 of New Jersey's 21 counties had a higher incidence rate of breast cancer than the national average and two-thirds of these counties had a 10 percent or higher incidence rate of breast cancer than the national average.

Federal and national foundation funding is disproportionately low for a State with a significant academic and research presence, and an exceptionally high death rate from breast cancer. The per capita expenditure on breast cancer funding in New Jersey is only $0.15. Neighboring States with lower breast cancer rates have received significantly more funding per capita. New York receives $1.11 and Massachusetts receives $3.05. In general, New Jersey gets only $0.62 back for every tax dollar sent to Washington. We contribute $17 billion more to the Federal Treasury than we get back—the lowest return in the Nation.

I believe that behind our State's history of environmental problems lies the reasons for our high breast cancer rates. It is not a coincidence that New Jersey, the State with the most Superfund sites, also has the highest breast cancer rates. The current breast cancer research efforts are not being focused on epidemiological studies that investigate the effect of environmental factors. The value of providing expanded research concerning the environmental factors for breast cancer in New Jersey is essential not only to New Jersey women, but to all women across the country.

I am optimistic that not only will this study provides some answers for women in New Jersey, but will provide groundbreaking research on the impact of environmental conditions on breast cancer rates which will benefit doctors across this country in their efforts to find a cure for this tragic disease. I ask unanimous consent that this be printed in the RECORD.

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

S. 631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Jersey Women's Environmental Health Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The American Cancer Society estimates 6,400 new cases of breast cancer will be diagnosed in New Jersey in 1997 with an estimated 1,800 deaths.

(2) In New Jersey, from 1989 to 1993, 8,378 women died from breast cancer. The average mortality rate per 100,000 was 31.1 for white women and 34.4 for African American women.

(3) New Jersey has the second highest breast cancer mortality rate (31.1) of any state in the United States. New Jersey also has more superfund sites (107) than any other State.

(4) During the period from 1988 to 1992—

(A) New Jersey's incidence rate (110.8) of breast cancer was 11 percent higher than the national incidence rate (105.6);

(B) 19 of New Jersey's 21 counties had a higher incidence rate of breast cancer than the national average; and

(C) two-thirds of the counties described in subparagraph (B) have a 10 percent or higher incidence rate of breast cancer than the national average.

(5) The State's University of the Health Sciences is one of only 7 joint centers in the United States, and the only such center in New Jersey, that house a National Cancer Institute designated research center and a National Institute of Environmental Health Sciences research center.

SEC. 3. RESEARCH CONCERNING BREAST CANCER.

(a) GRANT.—The Secretary of Defense is authorized to award one or more grants to the University of the Health Sciences of New Jersey (hereafter referred to in this Act as the "University") to enable the University and affiliates of the University to conduct research, in collaboration with the New Jersey Department of Health and Senior Services, concerning environmental, lifestyle, and genetic susceptibilities for breast cancer in the State of New Jersey.

(b) STUDY AND REPORT.—

(1) STUDY.—The University shall use amounts received under the grant under subsection (a) to conduct a study to assess biological markers, exposure to carcinogens, and other potential risk factors contributing to the incidence of breast cancer in the State of New Jersey.

(2) EPIDEMIOLOGICAL STUDY.—The New Jersey Department of Health and Senior Services shall be the co-investigator with the University for any population based epidemiologic studies under paragraph (1) that attempt to explore associations between environmental and other risk factors and breast cancer.

(3) REPORT.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the University (and the affiliates of the University conducting the study under this subsection) shall prepare and submit to the appropriate committees of Congress a report describing the findings and progress made as a result of the studies conducted under paragraphs (1) and (2).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(1) $3,000,000 for fiscal year 1998; and

(2) $2,500,000 for each of fiscal years 1999 through 2001.

By Mr. KOHL (for himself and Mr. WYDEN):

S. 632. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Committee on Finance.

MORTGAGE REVENUE BOND FINANCING LEGISLATION

Mr. KOHL. Mr. President, I rise today to introduce legislation with Senator WYDEN that will help Wisconsin and several other States, including Oregon, Texas, Alaska, and California, extend one of our most successful veterans programs to Persian Gulf war participants and others. This bill will amend the eligibility requirements for mortgage revenue bond financing for State veterans housing programs.

Wisconsin uses this tax-exempt bond authority to assist veterans in purchasing their first home. Under rules adopted by Congress in 1984, this program excluded from eligibility veterans who served after 1977. This bill would simply remove that restriction.

Wisconsin and the other eligible States simply want to maintain a principle that we in the Senate have also strived to uphold—that veterans of the Persian Gulf war should not be treated less generously than those of past wars. This bill will make that possible.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY OF VETERANS FOR MORTGAGE REVENUE BONDS DETERMINED BY STATES.

(a) IN GENERAL.—Paragraph (4) of section 143(*l*) of the Internal Revenue Code of 1986 (defining qualified veteran) is redesignated as paragraph (6) and amended to read as follows:

"(6) QUALIFIED VETERANS.—For purposes of this subsection, the term "qualified veteran" means any veteran—

"(A) who meets such requirements as may be imposed by the State law pursuant to which qualified veterans' mortgage bonds are issued,

"(B) who applied for the financing before the date 30 years after the last date on which such veteran left active service, and

"(C) in the case of financing provided by the proceeds of bonds issued during the period beginning July 19, 1984, and ending June

30, 1997, who served on active duty at some time before January 1, 1977.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 2. STATE CAP RESTRICTIONS.

(a) IN GENERAL.—Section 143(*l*) of the Internal Revenue Code of 1986 (relating to additional requirements for qualified veterans' mortgage bonds), as amended by section 1(a), is amended by inserting after paragraph (3) the following new paragraph:

"(4) SUBCAP RESTRICTIONS.—

"(A) IN GENERAL.—An issue meets the requirements of this paragraph only if the amount of bonds issued pursuant thereto that is to be used to provide financing to mortgagors who have not served on active duty at some time before January 1, 1977, when added to the amount of the aggregate qualified veterans' mortgage bonds previously issued by the State during the calendar year that is to be so used, does not exceed the subcap amount.

"(B) SUBCAP AMOUNT.—

"(i) IN GENERAL.—The subcap amount for any calendar year is an amount equal to the applicable percentage of the State veterans limit for such year.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined under the following table:

"Calendar year:	*Applicable Percentage:*
1998	10
1999	20
2000	30
2001	40
2002 and thereafter	50."

(b) RESTRICTION ON OVERALL STATE CAP.—Paragraph (3)(B) of section 143(*l*) of such Code (relating to State veterans limit) is amended by adding at the end the following flush sentence:

"But in no event shall the State veterans limit exceed $340,000,000 for any calendar year after 1998."

(c) CONFORMING AMENDMENT.—The matter preceding paragraph (1) of section 143(*l*) of such Code is amended by striking "and (3)" and inserting ", (3), and (4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1997.

By Mr. DOMENICI:

S. 633. A bill to amend the Petroglyph Monument Establishment Act of 1990 to adjust the boundary of the monument, and for other purposes; to the Committee on Energy and Natural Resources.

THE PETROGLYPH NATIONAL MONUMENT BOUNDARY ADJUSTMENT ACT OF 1997

Mr. DOMENICI. Mr. President, today I am introducing legislation that for the past 6 years, I hoped would not be necessary. This legislation is necessary, however, to ensure that the American people will continue to be able to enjoy the natural and cultural resources of Petroglyph National Monument.

For almost 10 years, I have worked to provide needed protection for the invaluable cultural resources located throughout the 17-mile-long escarpment on Albuquerque's west side. In 1990, New Mexico's congressional delegation successfully enacted legislation which I sponsored in the U.S. Senate to establish Petroglyph National Monument. The bill was signed by President George Bush on June 27, 1990, providing protection for prehistoric and historic artifacts from looting, vandalism, and imminent development.

That legislation provided a unique management program for the new monument, directly involving the National Park Service, the State of New Mexico, and the city of Albuquerque. Cooperation was and remains critical because, among other reasons, the State of New Mexico and the city of Albuquerque hold title to almost 63 percent of the land within the boundaries of the monument. Albuquerque alone holds title to about 3,800 acres of the 7,244 acres within the monument. In order to provide protection of the petroglyphs and other artifacts along the escarpment, a partnership between the three layers of government—Federal, State and local—remains the most appropriate way of managing these important resources.

Even before its introduction, I have already heard from several of my colleagues that the Domenici bill regarding petroglyphs has begun to generate controversy. I am sure that many more things will be said about it following today's introduction. By introducing this legislation, I want to reduced the debate to the basic essence of the relevant issues. It is about resolving a problem for two growing communities that encompass a national monument. That resolution involves providing access to less than one-quarter mile of a right-of-way that has been in the planning process for well over a decade. The problem with that one-quarter mile stretch is that it falls on city-owned land within the current boundaries of the national monument.

This legislation will adjust the monument boundary to exclude approximately 8.5 acres, providing a corridor for the extension of Paseo del Norte. This accounts for approximately one-tenth of 1 percent of the 7,244 acres within the monument boundary. This is not an authorization for the city of Albuquerque to begin construction on the road. When passed, it will simply remove the Federal Government as a barrier to the process of developing locally needed access to Albuquerque's west side.

In order to maintain the local support needed to sustain a national monument in an urban area, the city's needs must be acknowledged and dealt with. The extension of Paseo del Norte is an important piece of the planned transportation network for the west side. Access to much of the area for emergency services, such as ambulance and fire equipment, is currently inadequate. Albuquerque and Rio Rancho must have the ability to deal with the needs of those who already live and work in the area, and plan for needs of those who will live and work there in the future. At this point, growth and development north and east of the monument have eliminated any other reasonable alternatives that would resolve the problems that the cities face. The need for a resolution is indicated by demographic and traffic pattern projections provided by the regional planning organization, the Middle Rio Grande Council of Governments.

The extension of Paseo del Norte and the protection of the monument's cultural resources are not mutually exclusive ideas. They have been brought together before when a coalition was put together in 1989 to address these very same issues. At that time, the transportation needs and preservation concerns were coordinated to move forward with an idea that all could support. That plan, which resulted in the creation of Petroglyph National Monument, acknowledged the idea that neither the Paseo del Norte or Unser boulevard extensions would detract from the integrity of the monument, and the purposes for which it was created. Since that time, the city of Albuquerque has gone to great lengths to minimize any disturbance to the artifacts. In fact, the proposed road alignment would not directly impact a single petroglyph as it ascends the escarpment.

This legislation will once again commit us to the goal of a national monument that benefits the Albuquerque area, the Pueblo people, and the public, at large. The relationship between the city and the National Park Service has deteriorated since all parties entered into a 1991 joint administrative agreement. The situation now goes beyond issues surrounding the transportation planning of the city of Albuquerque, centered around Paseo del Norte, and whether it should or shouldn't be extended to the west side of the escarpment. As I mentioned earlier, the city of Albuquerque owns well over half of the land within the monument boundary. A breakdown of cohesive and coordinated management of the monument and its natural and cultural resources continues, and threatens to dissolve the support of the local communities and the surrounding municipalities. As was the case when the monument was established, a return to the intimate working relationship between the National Park Service and the cities of Albuquerque and Rio Rancho is required. This cannot happen, however, until the issues surrounding transportation planning are resolved, just as they were when the monument was established. Without a cooperative and productive relationship between the cities and the Park Service, the monument will never be what it was intended to be—a benefit to all Americans.

Throughout the ongoing debate, the urban development on Albuquerque's west side has been a constant reminder that the monument does not exist in a vacuum. Efforts to manage and protect the monument's natural and cultural resources must be coordinated with the needs of New Mexico's fastest growing cities—Albuquerque and Rio Rancho. That is to say that neither altruistic protectionism, nor unmitigated growth can be paramount in this relationship.

Both the city and the Park Service have made it clear that legislation is required to reach the goal we all desire. Unfortunately, there is no agreement on what the legislation should include. The city sees its transportation and infrastructure needs as the most important component. The Park Service believes that resource management and protection need to be considered as the top priority. Both the Park Service and the city have sound reasons for their respective positions. I believe that this legislation is not only the right thing for the city of Albuquerque or Rio Rancho, but the right thing for Petroglyph National Monument.

In closing, Mr. President, I want to make it clear that neither the Park Service, nor the city of Albuquerque can continue to pursue its own agenda without considering the needs of the other. We must all begin to refocus our efforts on our ultimate goal, providing for Petroglyph National Monument in a way that we can all be proud. I urge my colleagues to support this legislation that is critical to the communities of the Albuquerque area. Just as important, this legislation is vital to the continued enhancement and protection of the national monument we created in that urban area to preserve these invaluable cultural resources.

Without this, it seems to me the park will never again have cooperation between the city, the State, and the Federal Government and what could have been a marvelous example of government working together will probably end up in shambles.

I send the bill to the desk and ask it be appropriately referred.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Petroglyph National Monument Boundary Adjustment Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the purposes for which Petroglyph National Monument was established continue to be valid;

(2) the valued cultural and natural resources of Petroglyph National Monument will be best preserved for the benefit and enjoyment of present and future generations under a cooperative management relationship between the City of Albuquerque, New Mexico, the State of New Mexico, and the National Park Service;

(3) the National Park Service has been unable to accommodate harmoniously the transportation needs of the City of Albuquerque in balance with the preservation of cultural and natural resources of Petroglyph National Monument.

(4) corridors for the development of Paseo del Norte and Unser Boulevard are indicated on the map referred to in section 102(a) of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101–313; 16 U.S.C. 431 note), and the alignment of the roadways was anticipated by Congress before the date of enactment of the Act;

(5) it was the intent of Congress in the passage of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101–313; 16 U.S.C. 431 note) to allow the City of Albuquerque, New Mexico—

(A) to utilize the Paseo del Norte and Unser Boulevard corridors through Petroglyph National Monument; and

(B) to coordinate the design and construction of the corridors with the cultural and natural resources of Petroglyph National Monument; and

(6) the city of Albuquerque, New Mexico, has not provided for the establishment of rights-of-way for the Paseo del Norte and Unser Boulevard corridors under the Joint Powers Agreement (JPANO 78–521.81–277A), which expanded the boundary of Petroglyph National Monument to include the Piedras Marcadas and Boca Negra Units, pursuant to section 104 of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101–313; 16 U.S.C. 431 note).

SEC. 3. BOUNDARY ADJUSTMENT.

Section 104(a) of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101–313; 16 U.S.C. 431 note) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking "(a) Upon" and inserting the following:

"(a) PIEDRAS MARCADAS AND BOCA NEGRA UNITS.—

"(1) IN GENERAL.—Upon"; and

(3) by adding at the end the following:

"(2) BOUNDARY ADJUSTMENT.—

"(A) EXCLUSION OF PASEO DEL NORTE CORRIDOR.—Notwithstanding paragraph (1), effective as of the date of enactment of this subparagraph—

"(i) the boundary of the monument is adjusted to exclude the Paseo Del Norte corridor in the Piedras Marcadas Unit described in Exhibit B of the document described in subparagraph (B); and

"(ii) the Paseo Del Norte corridor shall be owned and managed as if the corridor had never been within the boundary of the monument.

"(B) DOCUMENT.—The document described in this paragraph is the document entitled "Petroglyph National Monument Road-way/Utility Corridors", on file with the Secretary of the Interior and the mayor of the City of Albuquerque, New Mexico.

By Mr. BAUCUS (for himself, Mr. WARNER, and Mr. BYRD):

S. 634. A bill to amend the Internal Revenue Code of 1986 to deposit in the highway trust fund the receipts of the 4.3-cent increase in the fuel tax rates enacted by the Omnibus Budget Reconciliation Act of 1993, and for other purposes; to the Committee on Finance.

TAX LEGISLATION

Mr. BAUCUS. Mr. President, I rise today to introduce legislation to transfer 4.3 cents of the Federal gas tax currently used for deficit reduction to transportation purposes.

Specifically, this bill will transfer 3.8 cents to the highway account of the highway trust fund and one-half penny to a new intercity passenger rail account to be used for Amtrak or other intercity passenger rail service.

Mr. President, this bill is important because it is time to give the American taxpayers the confidence that the fuel taxes they pay will be used for transportation purposes.

The 3.8 cents deposited in the highway account means over $5.5 billion in additional funds would be available each year for transportation improvements. Those improvements could be for highway maintenance or other infrastructure safety improvements; mass transit projects; bikepaths; pedestrian walkways; or a variety of other transportation projects that are eligible today under the Intermodal Surface Transportation Efficiency Act.

This Nation is losing ground with regard to transportation investments. Japan spends four times the United States on transportation as a percentage of gross domestic product. And the Europeans spend twice as much.

These and other countries envy our transportation system. We cannot afford to allow our global competitors to outspend us on infrastructure improvements. Our ability to remain competitive in the future is tied to maintaining an efficient transportation system and highly mobile workforce.

And Amtrak remains an important component of such a transportation system. Every country that has a passenger rail system provides some government financial assistance. It only makes sense that this country do the same.

Amtrak is important to many communities around the country—it serves over 530 cities and towns. These include 12 in my State of Montana—Libby, Whitefish, West Glacier, Essex, East Glacier, Cut Bank, Malta, Browning, Shelby, Havre, Wolf Point, and Glasgow. These Montana communities rely upon Amtrak as a transportation option.

And Amtrak is an important economic lifeline. Not only for the jobs directly related to Amtrak service, but Amtrak is an important tool in Montana's tourism industry. Each year, Amtrak brings thousands of folks to our State to ski, hike, or just enjoy the beauty of Montana.

But in order for Amtrak to remain a component of this Nation's transportation system, it must have a dedicated revenue source. Such a revenue

source will give Amtrak the ability to do long-term capitalization planning—planning and improvements that must be made in order for Amtrak to remain viable.

While I do not agree that Amtrak should be funded off of the top of the highway trust fund as has been suggested by the administration, I do feel we need to financially support Amtrak into the next century.

My bill will do that. It will provide a substantial increase in available funds for all modes of transportation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECEIPTS OF THE 4.3-CENT FUEL TAX RATE INCREASE DEPOSITED IN THE HIGHWAY TRUST FUND; ESTABLISHMENT OF INTERCITY PASSENGER RAIL ACCOUNT.

(a) IN GENERAL.—Section 9503(f) of the Internal Revenue Code of 1986 (defining Highway Trust Fund financing rate) is amended—

(1) in paragraph (1)(A), by striking "11.5 cents per gallon (14 cents per gallon after September 30, 1995)" and inserting "18.3 cents per gallon"; and

(2) in paragraph (1)(B), by striking "17.5 cents per gallon (20 cents per gallon after September 30, 1995)" and inserting "24.3 cents per gallon".

(b) CONFORMING AMENDMENTS.—

(1) Section 9503(f)(2) of such Code is amended—

(A) in subparagraph (B), by striking "3 cents" and inserting "7.3 cents";

(B) in subparagraph (C), by striking "zero" and inserting "4.3 cents per gallon";

(C) in subparagraph (D), by striking "zero" and inserting "48.54 cents per MCF (determined at standard temperature and pressure)";

(D) in subparagraph (E), by striking "11.5 cents" and inserting "15.8 cents"; and

(E) in subparagraph (E), by striking "17.5 cents" and inserting "21.8 cents".

(2) Section 9503(f)(3)(A) of such Code is amended to read as follows:

"(A) IN GENERAL.—If the rate of tax on any fuel is determined under section 4041(b)(2)(A), 4041(k), or 4081(c), the Highway Trust Fund financing rate is the rate so determined after September 30, 1997. In the case of a rate of tax determined under section 4081(c), the preceding sentence shall be applied by increasing the rate specified by 0.1 cent."

(3) Section 9503(f)(3)(C) of such Code is amended to read as follows:

"(C) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—In the case of a rate of tax determined under section 4041(m), the Highway Trust Fund financing rate is the rate so determined after September 30, 1995."

(4) Section 9503(f)(4) of such Code is amended by striking "zero" and inserting "4.3 cents per gallon".

(c) ESTABLISHMENT OF INTERCITY PASSENGER RAIL ACCOUNT.—Section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) is amended by adding at the end the following:

"(g) ESTABLISHMENT OF INTERCITY PASSENGER RAIL ACCOUNT.—

"(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Intercity Passenger Rail Account', consisting of such amounts as may be transferred or credited to the Intercity Passenger Rail Account as provided in this subsection or section 9602(b).

"(2) TRANSFERS TO INTERCITY PASSENGER RAIL ACCOUNT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall transfer to the Intercity Passenger Rail Account the intercity passenger rail portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after September 30, 1997, and before October 1, 2003.

"(B) INTERCITY PASSENGER RAIL PORTION.—For purposes of subparagraph (A), the term 'intercity passenger rail portion' means an amount determined at the rate of 0.5 cent for each gallon with respect to which tax was imposed under section 4041 or 4081.

"(3) EXPENDITURES FROM ACCOUNT.—

"(A) IN GENERAL.—Amounts in the Intercity Passenger Rail Account shall be available without fiscal year limitation to finance qualified expenses of—

"(i) the National Railroad Passenger Corporation, and

"(ii) each non-Amtrak State, to the extent determined under subparagraph (B).

"(B) MAXIMUM AMOUNT OF FUNDS TO NON-AMTRAK STATES.—Each non-Amtrak State shall receive under this paragraph an amount equal to the lesser of—

"(i) the State's qualified expenses for the fiscal year, or

"(ii) the product of—

"(I) 1/12 of 1 percent of the lesser of—

"(aa) the aggregate amounts transferred and credited to the Intercity Passenger Rail Account under paragraph (1) for such fiscal year, or

"(bb) the aggregate amounts appropriated from the Intercity Passenger Rail Account for such fiscal year, and

"(II) the number of months such State is a non-Amtrak State in such fiscal year.

If the amount determined under clause (ii) exceeds the amount under clause (i) for any fiscal year, the amount under clause (ii) for the following fiscal year shall be increased by the amount of such excess.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED EXPENSES.—The term 'qualified expenses' means expenses incurred, with respect to obligations made, after September 30, 1997, and before October 1, 2003—

"(i) for—

"(I) in the case of the National Railroad Passenger Corporation, the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail service, and the payment of interest and principal on obligations incurred for such acquisition, upgrading, and maintenance, and

"(II) in the case of a non-Amtrak State, the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail or bus service, and the payment of interest and principal on obligations incurred for such acquisition, upgrading, and maintenance, and

"(ii) certified by the Secretary of Transportation on October 1 as meeting the requirements of clause (i) and as qualified for payment under paragraph (5) for the fiscal year beginning on such date.

"(B) NON-AMTRAK STATE.—The term 'non-Amtrak State' means any State which does not receive intercity passenger rail service from the National Railroad Passenger Corporation.

"(5) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Transportation shall certify expenses as qualified for a fiscal year on October 1 of such year, in an amount not to exceed the amount of receipts estimated by the Secretary of the Treasury to be transferred to the Intercity Passenger Rail Account for such fiscal year. Such certification shall result in a contractual obligation of the United States for the payment of such expenses.

"(6) TAX TREATMENT OF ACCOUNT EXPENDITURES.—With respect to any payment of qualified expenses from the Intercity Passenger Rail Account during any taxable year to a taxpayer—

"(A) such payment shall not be included in the gross income of the taxpayer for such taxable year,

"(B) no deduction shall be allowed to the taxpayer with respect to any amount paid or incurred which is attributable to such payment, and

"(C) the basis of any property shall be reduced by the portion of the cost of such property which is attributable to such payment.

"(7) TERMINATION.—The Secretary shall determine and retain, not later than October 1, 2003, the amount in the Intercity Passenger Rail Account necessary to pay any outstanding qualified expenses, and shall transfer any amount not so retained to the Highway Trust Fund."

(d) EFFECTIVE DATES.—

(1) TRANSFER OF TAXES.—The amendments made by subsections (a) and (b) apply to fuel removed after September 30, 1997.

(2) ACCOUNT.—The amendment made by subsection (c) applies with respect to taxes imposed on and after October 1, 1997.

By Mr. SPECTER:

S. 635. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged and women-owned business enterprises; to the Committee on Finance.

THE MINORITY AND WOMEN CAPITAL FORMATION ACT OF 1997

Mr. SPECTER. Mr. President, I have sought recognition for the purpose of introducing legislation captioned the Minority and Women Capital Formation Act of 1997.

I am introducing this legislation which is designed to be an economic stimulus to promote jobs and economic opportunity. Unquestionably, small minority and women-owned businesses can and must play an integral role in expanding our economy, but they cannot do so unless we are able to close the great capital gap facing these businesses.

This bill, captioned the Minority and Women Capital Formation Act of 1997, would close this gap by providing targeted tax incentives for investors to invest equity capital in minority and women-owned small businesses, as well as venture capital funds which are dedicated to investing in minority and/or women-owned businesses.

As long as the Internal Revenue Code continues tax incentives to promote specified business activities, then I believe this legislation is warranted. If we were to adopt a flat or modified flat tax which I favor, and have proposed, then I would be willing to forgo the tax incentive because I believe sufficient additional capital would be available for the purpose without the specific incentive.

Small businesses in general face limited access to capital. In many instances, this lack of access amounts to a failure of many such businesses to succeed. But unlike other small businesses owned by minorities or women which have traditionally faced greater barriers in addressing private capital for startups, these businesses have been unable to achieve such funding.

Candidly, many of these barriers are founded in racism and sexism, two subjects we do not like to talk about but two subjects which are very important and really very pervasive in our society.

While the United States has benefited from civil rights laws, we have not yet moved ahead on the business front to provide the kinds of capitalization which we need. The "capital gap" is a phrase adopted by the U.S. Commission on Minority Business Development. In its 1990 interim report, the Commission found that the availability of capital is probably the single most important variable affecting minority business. As stated by the Commission "the problem is twofold: Lack of access to capital and credit and the need for development of alternatives to conventional financial instruments and intermediaries."

In its 1992 final report, the Commission said: "Without timely access to capital, you can't start or grow a business, particularly growth firms being weaned off solely Government business."

In 1988, the House Committee on Small Business, in its report, New Economic Realties, The Rise of Women Entrepreneurs, also noted the barriers which women face in accessing capital and the need for the Federal Government to take into account alternative development financing institutions and eliminating or circumventing such barriers.

Mr. President, this legislation is designed to focus our attention on critical elements of a national strategy for providing access to capital and credit from minorities and women in business. The bill provides investors, and others who invest equity, capital in a small minority or women-owned businesses or venture capital for minorities, African-Americans, Hispanics, et cetera, will have tax breaks of, first, the option to elect either a tax deduction or a tax credit subject to certain annual and lifetime caps and, second, a partial capital gains exclusion of limited deferral of the remaining capital gain if it is reinvested in another minority or women-owned small business.

Mr. Robert Johnson, president of Black Entertainment Holdings, a minority-controlled enterprise publicly traded on the New York Stock Exchange, testified in 1992 before the Banking Committee on the availability of capital to minority businesses. He stated: "The urgency of the problem requires more adventuresome kinds of policies. Policies that are designed to deal with a specific problem should be problem specific in their solution."

Mr. President, I note that in the 1981 to 1990 timeframe, the venture capital resources increased from approximately $5.8 billion to some $36 billion but less than one-half of 1 percent of the capital raised by the majority venture capital industry was invested in minority- or women-operated businesses, which demonstrates the need for legislation of this type and incentives.

I believe minority and women small business development is critical to urban revitalization, job creation, and long-term economic growth. No one denies the need for urban revitalization and job creation to facilitate a sustained economic recovery. And no one should deny the role that women and minority business owners must have in this effort. During the 102d Congress as a member of the Banking Committee, I heard many firsthand accounts concerning the lack of access to capital for minority- and women-owned businesses. In some cases the cause is outright discrimination; in other instances investor or lender ignorance of the marketplace; in other fear. Whatever the cause, we are facing an emergency that requires Congress' and the President's immediate attention.

To avoid abuse, the bill also imposes minimum holding periods of 5 years for such investments and contains recapture provisions for instances where the minority- or women-owned business or venture capital fund fails to remain qualified within the meaning of the legislation.

Admittedly, my proposal may not be inexpensive. To address the cost issue, perhaps the bill should be limited to a tax credit, or perhaps to the capital gains benefit. In any event, I am willing to work with the estimators, my colleagues, and others to modify my bill as necessary to achieve the ultimate goal of eliminating the capital gap confronting minority- and women-owned businesses.

Some may question the use of tax policy in the manner I am proposing. However, just as we use tax policy to foster development of housing, jobs, and research and development, so too should we utilize tax policy to foster economic empowerment of minority and women business owners who will provide jobs and generate tax revenues.

Stated differently, this bill is really a Federal investment strategy for such businesses. The proposed tax expenditures represent seed capital to help develop greater self-sufficiency in the long term. In this regard, the bill recognizes that capital targeted to women and minority business is an essential, but often overlooked component of economic development. In my judgment, it is a very creative tool to spur business growth and job creation, particularly in distressed communities.

Another very important feature of the bill is the provision of similar tax incentives for those who invest in venture capital funds dedicated to investing in minority- and/or women-owned businesses. Prior to 1970, the Federal Government had no dedicated sources of financing for disadvantaged businesses. In 1971, however, Congress authorized the creation of the specialized small business investment company [SSBIC] program administered by the Small Business Administration. For the last 20 years SSBIC's have been the primary source of capital for disadvantaged businesses. In the face of tremendous obstacles SSBIC's and the minority venture capital industry have made a real difference. For example, according to the National Association of Investment Companies [NAIC], over the last decade they have raised and invested nearly $1 billion in disadvantaged businesses.

In sum, Mr. President, there remains a need to facilitate the development of minority- and women-owned small business. We cannot allow the capital gap to grow. If we are to remain a productive and competitive nation, we must eliminate it. Moreover, there is no substitute for equity capital. Federal policies should not focus exclusively on debt financing. With targeted tax incentives, such as those that I am proposing, we can cause greater investment of equity in businesses that traditionally have not been able to access it to any significant degree. I believe this capital formation bill will take us a long way toward achieving this goal. I, therefore, encourage my colleagues to join my efforts to enact this much needed legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minority and Women Capital Formation Act of 1997".

SEC. 2. INCENTIVES FOR INVESTMENTS IN DISADVANTAGED AND WOMEN-OWNED ENTERPRISES.

(a) Subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to capital gains and losses) is amended by adding at the end thereof the following new part:

"PART VI—INCENTIVES FOR INVESTMENTS IN DISADVANTAGED AND WOMEN-OWNED ENTERPRISES

"Subpart A—Initial investment incentives.

"Subpart B—Capital gain provisions.

"Subpart C—General provisions.

"Subpart A—Initial Investment Incentives

"SEC. 1301. Deduction for investment in minority and women venture capital funds.

"SEC. 1302. Deduction for investment in small minority and women's business corporations.

"SEC. 1303. Taxpayer may elect credit in lieu of deduction.

"SEC. 1304. Recapture provisions.

"SEC. 1301. DEDUCTION FOR INVESTMENT IN MINORITY AND WOMEN VENTURE CAPITAL FUNDS

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of the aggregate bases of—

"(1) qualified minority fund interests, and

"(2) qualified women's fund interests,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer as of the close of such taxable year.

"(b) LIMITATIONS.—The amount allowable as a deduction under subsection (a)(1) or (2), respectively, for any taxable year shall not exceed $300,000 ($150,000 in the case of a separate return by a married individual).

"(c) QUALIFIED MINORITY FUND INTEREST.—For purposes of this part, the term 'qualified minority fund interest' means any stock in a domestic corporation or partnership interest in a domestic partnership if—

"(1) such stock or partnership interest (as the case may be) is issued after the date of the enactment of this part solely in exchange for money,

"(2) such corporation or partnership (as the case may be) was formed exclusively for purposes of—

"(A) acquiring at original issuance equity interests in qualified minority corporations, or

"(B) making loans to such corporations, and

"(3) at least 70 percent of the total bases of its assets is represented by—

"(A) investments referred to in paragraph (2), and

"(B) cash and cash equivalents.

For purposes of paragraph (2), the term 'equity interests' means stock, warrants, and convertible securities.

"(d) QUALIFIED WOMEN'S FUND INTEREST.—For purposes of this part, the term 'qualified women's fund interest' shall be determined under subsection (c) by substituting 'qualified women's corporations' for 'qualified minority corporations' in paragraph (2)(B).

"SEC. 1302. DEDUCTION FOR INVESTMENT IN SMALL MINORITY AND WOMEN'S BUSINESS CORPORATIONS.

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of the aggregate bases of—

"(1) small minority business stock, and

"(2) small women's business corporations,

which are acquired by the taxpayer during the taxable year at its original issuance (directly or through an underwriter), and which are held by the taxpayer as of the close of such taxable year.

"(b) LIMITATIONS.—

"(1) NONCORPORATE TAXPAYERS.—

"(A) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount allowable as a deduction under subsection (a)(1) or (2), respectively, for any taxable year shall not exceed the lesser of—

"(i) $50,000 ($25,000 in the case of a separate return by a married individual), or

"(ii) $500,000 ($250,00 in the case of a separate return by a married individual) reduced by the aggregate amount allowable as a deduction under subsection (a)(1) or (2), respectively, the taxpayer for prior taxable years.

"(B) CARRYOVER.—If the amount otherwise deductible under subsection (a) exceeds the limitation under subparagraph (A)(1) for any taxable year, the amount of such excess shall be treated as an amount described in subsection (a) which is paid in the following taxable year.

"(C) SPECIAL RULE.—The amount allowable as a deduction under subparagraph (A)(i) or (ii) with respect to any joint return shall be allocated equally between the spouses in determining the limitation under subparagraph (A)(ii) for any subsequent taxable year.

"(2) CORPORATE TAXPAYER.—In the case of a corporation, the amount allowable as a deduction under subsection (a) (1) or (2), respectively, for any taxable year shall not exceed $100,000.

"(c) SMALL MINORITY BUSINESS STOCK.—For purposes of this part, the term 'small minority business stock' means any stock in a qualified minority corporation if—

"(1) as of the date of the issuance of such stock, the total bases of property owned or leased by such corporation does not exceed $12,000,000,

"(2) such stock is issued after the date of the enactment of this part solely in exchange for money, and

"(3) such corporation elects to treat such stock as small minority business stock for purposes of this section. An election under paragraph (3), once made, shall be irrevocable.

"(d) SMALL WOMEN'S BUSINESS STOCK.—For purposes of this part, the term 'small women's business stock' means any stock in a qualified women's corporation if—

"(1) as of the date of the issuance of such stock, the total bases of property owned or leased by such corporation does not exceed $12,000,000,

"(2) such stock is issued after the date of the enactment of this part solely in exchange for money, and

"(3) such corporation elects to treat such stock as small women's business stock for purposes of this section. An election under paragraph (3), once made, shall be irrevocable.

"(e) ISSUER LIMITATION.—The aggregate amount of stock for which an issuer may make an election under subsection (c)(3) or (d)(3) shall not exceed $5,000,000.

"SEC. 1303. TAXPAYER MAY ELECT CREDIT IN LIEU OF DEDUCTION.

"(a) MINORITY AND WOMEN VENTURE CAPITAL FUNDS.—

"(1) IN GENERAL.—A taxpayer may elect, in lieu of the deduction under section 1301, to take a credit against the tax imposed by this chapter for the taxable year in an amount equal to 15 percent of the sum of the aggregate bases of—

"(A) qualified minority fund interests, and

"(B) qualified women's fund interest,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer at the end of the taxable year.

"(2) LIMITATIONS.—The amount allowable as a credit under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), or

"(B) $7,000,000, ($3,500,000 in the case of a separate return by a married individual), reduced by the amount of the credit allowed under paragraph (1) for all preceding taxable years.

"(3) CARRYOVER.—If the amount otherwise allowable as a credit under paragraph (1) exceeds the limitation under paragraph (2)(A) for any taxable year, the amount of such excess shall, subject to the limitation of paragraph (2), be treated as an amount which is allowable as a credit in the following taxable year.

"(b) SMALL MINORITY AND WOMEN'S BUSINESS CORPORATIONS.—

"(1) IN GENERAL.—A taxpayer may elect, in lieu of the deduction under section 1302, to take a credit against the tax imposed by this chapter for the taxable year in an amount equal to 10 percent of the sum of the aggregate bases of—

"(A) small minority business stock

"(B) small women's business corporations,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer at the end of the taxable year.

"(2) LIMITATIONS.—The amount allowable as a credit under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) $250,000 ($125,000 in the case of a separate return by a married individual), or

"(B) $5,000,000 ($2,500,000 in the case of the separate return by a married individual), reduced by the amount of the credit allowed under paragraph (1) for all preceding taxable years.

"(3) CARRYOVER.—If the amount otherwise allowable as acredit under paragraph (1) exceeds the limitation under paragraph (2)(A) for any taxable year, the amount of such excess shall, subject to the limitation of paragraph (2), be treated as an amount which is allowable as a credit in the following taxable year.

"(c) APPLICATION WITH OTHER PROVISIONS.—For purposes of this title, any credit allowed under this section shall be treated in the same manner as a credit allowed under subpart B of part IV of subchapter A.

"(d) ELECTION.—An election under this section for any taxable year shall be made at such time and in such manner as the Secretary may prescribe and shall apply with respect to all acquisitions to which this subpart applies for such taxable year.

"SEC. 1304. RECAPTURE PROVISIONS.

"(a) BASIS REDUCTION.—For purposes of this title, the basis of any qualified minority or women's fund interest or small minority or women's business stock shall be reduced by the amount of the deduction allowed under section 1301 or 1302, or the credit allowed under section 1303, with respect to such property. In any case in which the deduction allowable under subsection (a) of section 1301 or 1302 (as the case may be) is limited by reason of subsection (b) of such section, or in any case in which the credit allowable under subsection (a)(1) or (b)(1) of section 1303 is limited by reason of subsection (a)(2) or (b)(2) of section 1303, the deduction of credit shall be allocated proportionately among the qualified minority or women's fund interests or small minority or women's business stock, whichever is applicable, acquired during the taxable year on the basis of their respective bases (as determined before any reduction under this subsection).

"(b) DEDUCTION RECAPTURED AS ORDINARY INCOME.—

"(1) IN GENERAL.—For purposes of section 1245—

"(A) any property the basis of which is reduced under subsection (a) (and any other

property the basis of which is determined in whole or in part by reference to the adjusted basis of such property) shall be treated as section 1245 property; and

"(B) any reduction under subsection (a) shall be treated as a deduction allowed for depreciation. If an exchange of any stock the basis of which is reduced under subsection (a) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(2) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of this section, if—

"(A) a deduction was allowable under section 1301, or a credit was allowable under section 1303, with respect to any stock in a corporation or interest in a partnership and such corporation or partnership, as the case may be, ceases to meet the requirements of paragraphs (2) and (3) of section 1301(c), or

"(B) a deduction was allowable under section 1302, or a credit was allowable under section 1303, with respect to any stock in a corporation and such corporation ceases to be a qualified minority corporation or qualified women's corporation, whichever is applicable,

the taxpayer shall be treated as having disposed of such property for an amount equal to its fair market value.

"(c) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS.—

"(1) IN GENERAL.—If a taxpayer disposes of any property the basis of which is reduced under subsection (a) before the date 5 years after the date of its acquisition by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(A) on the additional tax which would have been imposed under this chapter for the taxable year in which such property was acquired if such property had not been taken into account under section 1301, 1302, or 1303, whichever is applicable;>"(B) for the period on the due date for the taxable year in which the property was acquired and ending on the due date for the taxable year in which the disposition occurs. For purposes of the preceding sentence, the term 'due date' means the due date (determined without regard to extensions for filing the return of the tax imposed by this chapter).

"(2) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter, for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

"Subpart B—Capital Gain Provisions

"SEC. 1311. Exclusion of gain on sale by qualified minority or women's fund.

"SEC. 1312. Deferral of capital gain reinvested in certain property.

"SEC. 1311. EXCLUSION OF GAIN ON SALE BY QUALIFIED MINORITY OR WOMEN'S FUND.

"(a) GENERAL RULE.—Gross income shall not include 50 percent of any gain on the sale or exchange of any property by a qualified minority or women's fund if such property was acquired after the date of the enactment of this part and was held by such fund for at least 5 years.

"(b) QUALIFIED MINORITY FUND.—For purposes of this section, the term 'qualified minority fund' means any domestic corporation or domestic partnership which meets the requirements of paragraphs (2) and (3) of section 1301(c).

"(c) QUALIFIED WOMEN'S FUND.—For purposes of this section, the term 'qualified women's fund' means any domestic corporation or partnership meeting the requirements of paragraphs (2) and (3) of section 1301(c) (as modified by section 1301(d)).

"SEC. 1312. DEFERRAL OF CAPITAL GAIN REINVESTED IN CERTAIN PROPERTY.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of an individual, any qualified reinvested capital gain shall be taken into account for purposes of this title—

"(1) in the 9th taxable year following the taxable year of the sale or exchange, or

"(2) in such earlier taxable year (or years) following the taxable year of the sale or exchange as the taxpayer may provide.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The amount of the gain to which subsection (a) applies shall not exceed $500,000, reduced by the aggregate amount of gain of the taxpayer to which subsection (a) applied for prior taxable years. This subparagraph shall be applied separately for property described in subsections (c)(2)(A) and (B) and for property described in subsection (c)(2)(C) and (D).

"(B) SPECIAL RULE.—The amount of gain to which subsection (a) applied on a joint return for any taxable year shall be allocated equally between the spouses in determining the limitation under subparagraph (A) for any subsequent taxable year.

"(2) INELIGIBILITY OF CERTAIN TAXPAYERS.—Subsection (a) shall not apply to—

"(A) a married individual (as defined in section 7703) who does not file a joint return for the taxable year, or

"(B) any estate or trust.

"(c) QUALIFIED REINVESTED CAPITAL GAIN.—For purposes of this section—

"(1) QUALIFIED REINVESTED CAPITAL GAIN.—The term 'qualified reinvested capital gain' means the amount of any long-term capital gain (determined without regard to this section) from any sale or exchange after the date of the enactment of this part to which an election under this section applies but only to the extent that the amount of such gain exceeds the excess (if any) of—

"(A) the amount realized on such sale or exchange, over

"(B) the cost of any qualified property which the taxpayer elects to take into account under this paragraph with respect to such sale or exchange. For purposes of subparagraph (B), the cost of any property shall be reduced by the portion of such cost previously taken into account under this paragraph.

"(2) QUALIFIED PROPERTY.—The term 'qualified property' means—

"(A) any qualified minority fund interest acquired by the taxpayer at its original issuance (directly or through an underwriter),

"(B) any small minority business stock acquired by the taxpayer at its original issuance (directly or through an underwriter),

"(C) any qualified women's fund interest acquired by the taxpayer at its original issuance (directly or through an underwriter), and

"(D) any small women's business stock acquired by the taxpayer at its original issuance (directly or through an underwriter). Such term shall not include any property taken into account by the taxpayer under section 1301, 1302, or 1303.

"(3) REINVESTMENT PERIOD.—The term 'reinvestment period' means, with respect to any sale or exchange, the period beginning on the date of the sale or exchange and ending on the day 1 year after the close of the taxable year in which the sale or exchange occurs.

"(d) TERMINATION OF DEFERRAL IN CERTAIN CASES.—

"(1) CERTAIN DISPOSITIONS, ETC., OF REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the taxpayer disposes of any qualified property before the date 5 years after the date of its purchase—

"(i) any amount treated as a qualified reinvested capital gain by reason of the purchase of such property (to the extent not previously taken into account under subsection (a)) shall be taken into account for the taxable year in which such disposition or cessation occurs, and

"(ii) the tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(I) on the additional tax which would have been imposed under this chapter (but for this section) for the taxable year of the sale or exchange, and

"(II) for the period of the deferral under this section. Any increase in tax under clause (ii) shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

"(B) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of subparagraph (A), rules similar to the rules of section 1304(b)(2) shall apply.

"(2) LAST TAXABLE YEAR.—In the case of the last taxable year of any taxpayer, any qualified reinvestment capital gain (to the extent not previously taken into account under subsection (a)) shall be taken into account for such last taxable year.

"(e) COORDINATION WITH INSTALLMENT METHOD REPORTING.—This section shall not apply to any gain from any installment sale (as defined in section 453(b)) if section 453(a) applies to such sale.

"(f) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on any sale or exchange to which an election under this section applies, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any qualified property,

"(B) the taxpayer's intention not to purchase qualified property within the reinvestment period, or

"(C) a failure to make such purchase within the reinvestment period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

"Subpart C—General Provisions

"SEC. 1321. Qualified minority corporation defined.

"SEC. 1322. Qualified women's corporation defined.

"SEC. 1323. Other definitions and special rules.

"SEC. 1321. QUALIFIED MINORITY CORPORATION DEFINED.

"For purposes of this part, the term 'qualified minority corporation' means any domestic corporation if—

"(1) 50 percent or more of the total value of the stock of such corporation is held by individuals who are members of a minority,

"(2) throughout the 5-year period ending on the date as of which the determination is being made (or, if shorter, throughout the period such corporation was in existence), such corporation has been engaged in the active conduct of a trade or business or in startup activities relating to a trade or business, and

"(3) substantially all of the assets of such corporation are used in the active conduct of a trade or business or in startup activities related to a trade or business.

"SEC. 1322. QUALIFIED WOMEN'S CORPORATION.

"For purposes of this part, the term 'qualified women's corporation' means any domestic corporation if—

"(1) 50 percent or more of the total value of the stock of such corporation is held by individuals who are women,

"(2) the management and daily business operations of the corporation are controlled by one or more women, and

"(3) the requirements of paragraphs (2) and (3) of section 1301 are met with respect to the corporation.

"SEC. 1323. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) MINORITY INDIVIDUALS.—For purposes of this part, individuals are members of a minority if the participation of such individuals in the free enterprise system is hampered because of social disadvantage within the meaning of section 301(d) of the Small Business Investment Act of 1958.

"(b) CONTROLLED GROUP RULES.—

"(1) IN GENERAL.—All corporations which are members of the same controlled groups shall be treated as 1 corporation for purposes of this part.

"(2) CONTROLLED GROUP.—For purposes of paragraph (1), the term 'controlled group' has the meaning given such term by section 179(d)(7)."

(b) The table or parts for subchapter P of chapter 1 of such Code is amended by adding at the end thereof the following item:

"Part VI. Incentives for investments in disadvantaged and women-owned enterprises."

(c) The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. FRIST (for himself, Mr. JEFFORDS, Mr. DEWINE, Mr. DORGAN, Mr. MURKOWSKI, Mr. LEVIN, Mr. THURMOND, Mrs. MURRAY, Mr. WARNER, and Mr. GREGG):

S. 636. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

THE GIFT OF LIFE CONGRESSIONAL MEDAL ACT OF 1997

Mr. FRIST. Mr. President, I take great pleasure today in introducing the Gift of Life Congressional Medal Act of 1997. With this legislation, which doesn't cost taxpayers a penny, Congress has the opportunity to recognize and encourage potential donors, and give hope to over 52,000 Americans who have end-stage disease. As a heart and lung transplant surgeon, I saw one in four of my patients die because of the lack of available donors. Public awareness simply has not kept up with the relatively new science of transplantation. As public servants, we need to do all we can to raise awareness about the gift of life.

Under this bill, each donor or donor family will be eligible to receive a commemorative Congressional medal. It is not expected that all families, many of whom wish to remain anonymous, will take advantage of this opportunity. The program will be coordinated by the regional organ procurement organizations [OPO's] and managed by the entity administering the Organ Procurement and Transplantation Network. Upon request of the family or individual, a public official will present the medal to the donor or the family. This creates a wonderful opportunity to honor those sharing life through donation and increase public awareness. Some researchers have estimated that it may be possible to increase the number of organ donations by 80 percent through incentive programs and public education.

As several recent experiences have proved, any one of us, or any member of our families, could need a life saving transplant tomorrow. We would then be placed on a waiting list to anxiously await our turn, or our death. The number of people on the list has more than doubled sine 1990—and a new name is added to the list every 18 minutes. In my home State of Tennessee, 98 Tennesseans died while waiting last year, and more than 900 people are in need in a transplant. Nationally, because of a lack or organs, close to 4,000 individuals died who were on the list in 1996.

However, the official waiting list reflects only those who have been lucky enough to make it into the medical care system and to pass the financial hurdles. If you include all those reaching end-stage disease, the number of people potentially needing organs or bone marrow, very likely over 120,000, becomes staggering. Only a small fraction of that number would ever receive transplants, even if they had adequate insurance. There simply are not enough organ and tissue donors, even to meet present demand.

Federal policies surrounding the issue of organ transplantation are difficult. Whenever you deal with whether someone lives or dies, there are no easy answers. There are between 15,000 and 20,000 potential donors each year, yet inexcusably, there are only some 5,400 actual donors. That's why we need you to help us educate others about the facts surrounding tissue and organ donation.

This year and last, Mr. President, there has been unprecedented cooperation, on both sides of the aisle, and a growing commitment to awaken public compassion on behalf of those who need organ transplants. It is my very great pleasure to introduce this bill on behalf of a group of Senators who have already contributed in extremely significant ways to the cause of organ transplantation. And we are proud to ask you to join us, in encouraging people to give life to others.

By Mr. DEWINE:

S. 637. A bill to amend title XVII of the Social Security Act to continue full-time-equivalent resident reimbursement for an additional one year under Medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs; to the Committee on Finance.

THE PRIMARY CARE PROMOTION ACT OF 1997

Mr. DEWINE. Mr. President, I rise today to introduce the Primary Care Promotion Act of 1997. This bill would restore full Federal funding under Medicare for graduate medical education for physicians specializing in approved combined primary care residency training programs. This legislation is needed to refocus the recently issued HCFA regulations that reduce the level of Federal funding to graduate medical education paid by the Medicare program.

While HCFA's goals—reducing Medicare spending and placing sensible limitations on the number of new specialists trained in this country—are praiseworthy, we must not lose sight of the fact that we face a shortage of primary care physicians, and particularly those who treat children.

The Federal Government has used Medicare dollars effectively to support physicians who specialize in care for our seniors. Now, in my view, we must make a similar commitment to ensure that medical professionals are prepared to meet the health needs of our children. Despite what the bulk of our health policy would suggest, the health needs of our children are very different from those of their parents and grandparents. Children aren't miniature adults, and they need care that is tailored to their special needs.

This legislation would greatly benefit children, because it would enable physicians to complete advanced training in combined specialties such as internal medicine and pediatrics or emergency medicine and pediatrics. A recent survey by the American Boards of Internal Medicine and Pediatrics demonstrates the wisdom of this investment: over 70 percent of the physicians who were trained in the combined specialties of internal medicine and pediatrics between 1980 and 1995 currently work as primary care providers. Because the health needs of children are so varied and so different from those of adults, they often require care by physicians who have received specialized training.

The Primary Care Promotion Act is supported by a wide variety of professional medical associations, including

pediatricians, specialists in internal medicine, children's hospitals, and medical educators. This legislation has received bipartisan support in the House of Representatives, where it has been introduced by Representative LOUISE SLAUGHTER, and we expect similar support in the Senate.

By Ms. SNOWE (for herself and Mr. ROCKEFELLER):

S. 639. A bill to require the same distribution of child support arrearages collected by Federal tax intercept as collected directly by the States, and for other purposes; to the Committee on Finance.

CHILD SUPPORT ARREARAGES LEGISLATION

Ms. SNOWE. Mr. President, I rise today to introduce a bill designed to rectify an inequity in child support law which will enable families to keep more of past-due support owed to them. I am extremely pleased that my colleague from West Virginia, Mr. ROCKEFELLER, has joined me today in offering this bill, and that Representative NANCY JOHNSON is offering a companion bill in the House.

Last year, my bill, the Child Support Improvement Act of 1996, was enacted into law as part of the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Act). This bill contained comprehensive reforms to ensure that deadbeat parents could no longer renege on their responsibilities as parents to care for and support their children. It included provisions to dramatically improve States' ability to collect child support, particularly across State lines, and to take maximum advantage of computer technology in order to track down missing parents and ensure that child support gets paid promptly. It also will help increase the rate of paternity establishment, require the provision if health insurance coverage in child support orders, and improve the process for modifying support orders. In short, it promises to bring hope and financial stability to the millions of children and their single parents who depend on support from absent parents.

I am introducing a bill today which will close one small loophole that remains outstanding. Prior to the enactment of the Welfare Reform Act last year, a State that collected child support arrearages for a family that had left welfare could choose to reimburse itself for welfare expenditures with the arrears that accrued before the during AFDC receipt, before it paid the family arrears that accrued after the family left AFDC. Two-thirds of States chose to pay themselves back for AFDC outlays before paying the family, leaving the family with little, if any, of the money that accrued after they left the rolls. The Welfare Act rightfully changes this to require States to first pay the family the arrears collected when the family was not on welfare, before it can reimburse itself for assistance outlays. This provision increases the likelihood of a family's success in leaving welfare by ensuring that the family receives more of the child support collected on its behalf.

Unfortunately, a small provision inserted in conference creates an inequity for families, whereby arrears collected via a tax intercept (instead of wages garnished by the State) will not be affected by this change. It does not make sense that whether or not a family receives the funds depends on the method by which it is collected. This provision also rewards those States which do little to collect child support but rely instead on the Federal tax system to intercept the funds. My bill corrects this inequity by imposing the same distribution scheme on arrears collected through the tax intercept as it does on arrears collected by the States directly. This will ensure that families receive more of the past-due support that is owed to them, helping them to remain economically independent and to stay off welfare. I urge my colleagues to support this bill, which not only promises to help families, but will further our goals of keeping families off of public assistance.

By Mr. D'AMATO (for himself, Mr. CHAFEE, and Mr. DEWINE):

S. 640. A bill to extend the transition period for aliens receiving supplemental security income or food stamp benefits as of August 22, 1996; to the Committee on Finance.

IMPLEMENTATION DELAY LEGISLATION

Mr. D'AMATO. Mr. President, on August 22, 1997, in nearly 100 days, approximately half a million legal immigrants in this country, currently receiving SSI, will lose their benefits. These recipients are elderly or disabled—a vulnerable part of our population.

Of the 80,000 legal immigrants at risk of losing their SSI benefits in New York State, more than 70,000 are in New York City. The city estimates that there will also be 130,000 immigrants who will lose food stamps.

According to New York City estimates, the loss of SSI and food stamps to city immigrants is a loss of $442 million from the Federal Government to immigrants in New York City in 1998.

On April 17, I joined with my colleagues Senators CHAFEE, FEINSTEIN, MOYNIHAN, DEWINE, LIEBERMAN, and MIKULSKI to introduce legislation that will allow immigrants who were in the United States legally and were receiving SSI and food stamps on August 22, 1996 (the day the welfare reform bill was enacted) to continue to receive those benefits.

Legal immigrants who were in this country and receiving benefits at the time the welfare reform act was enacted should not have the rules changed midstream.

The legislation introduced last Thursday also allows refugees who were legally in the United States as of August 22, 1996 to receive SSI or food stamps, without a 5-year limitation. Refugees who entered after August 1996 will only be able to receive benefits for 5 years.

Congress needs time to enact legislation that will protect the most vulnerable population—the elderly and the disabled who are relying on these Federal benefits and refugees who are fleeing persecution.

Enacting a legislative fix will take time but the clock is ticking closer to August 1997, when benefits are expected to be cut.

That is why Senator CHAFEE, DEWINE, and I are introducing a bill that will provide the necessary time for Congress to further examine options and take action.

The bill will delay the cut-off period for legal immigrants who are SSI and food stamp recipients until February 22, 1998.

A delay in implementation will also allow immigrants who are trying to naturalize an additional 6 months to complete the citizenship process. This is especially important, because under the Welfare Reform Act, a legal immigrant who becomes an American citizen is eligible for benefits as any other citizen.

The naturalization process can prove to be a bureaucratic nightmare—especially for elderly and disabled poor immigrants. These people should not be unfairly penalized for being caught in the bureaucracy.

Mr. President, I urge my colleagues review the merits of this bill, as well as the Chafee-Feinstein-D'Amato bill to restore benefits to certain categories of immigrants, and hope for their passage.

By Mr. WARNER:

S.J. Res. 27. A joint resolution designating the month of June 1997, the 15th anniversary of the Marshall plan, as George C. Marshall month, and for other purposes; to the Committee on the Judiciary.

MARSHALL PLAN RESOLUTION

Mr. WARNER. Mr. President, today the nations of Europe enjoy historically unprecedented freedoms and economic success as democracy flourishes across the continent. This was not the case a mere 50 years ago.

I rise today to ask my colleagues and the American people to recall the state of the European Continent at the end of World War II. Like many of you, I will never forget the horrible devastation that the world witnessed in Europe: the destruction of the world's most remarkable cities; devastation of God's beautiful countryside; and the despair of the people. Europeans endured not only the ravages of two world wars, but also economic and political turmoil throughout the first

half of this century. As I recall, even the elements seemed to plot against a post-World War II European recovery—one of the harshest European winters on record was in 1946.

This situation might well have precipitated renewed divisions and another war rather than a lasting peace. It was quite possible that we may have never enjoyed, in our lifetime, a Europe such as it thrives today, if it had not been for the foresight and wisdom of then-Secretary of State, and former Army Chief of Staff, Gen. George Catlett Marshall.

On behalf of the American people, George Marshall conceived and implemented one of the most benevolent acts of charity in the history of mankind. Under his stewardship, the European Recovery Program, or Marshall plan, provided over $13 billion in economic relief to the nations of Europe. Marshall's ingenuity and leadership restored hope and pride to a disheartened people, helping them to rebuild their cities and societies and again be positive contributors to the international community.

With the economic recovery of Western Europe came political stability. The Marshall plan, which Winston Churchill characterized as "the most unsordid act in history," enabled the re-emergence of free, democratic institutions. Today, the North Atlantic Treaty Organization and the Organization for Economic Cooperation and Development are successful institutions which can trace their origins to the Marshall plan.

General Marshall outlined his visionary initiative during remarks delivered at Harvard University in June 1947. That same month, he met with representatives of European nations to encourage their participation. Today, as we approach the 50th anniversary of that month, I am proud to introduce this resolution to once again acknowledge the integrity, vision, and benevolence of George Marshall, statesman and soldier, and the unparalleled importance of the Marshall plan in shaping the world of the 20th century. It is important that we continue to foster the virtues embodied in the Marshall plan; virtues which all the world continues to expect from the United States. I invite the support of my colleagues to this important legislation.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 65, a bill to amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes.

S. 66

At the request of Mr. HATCH, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 66, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 112

At the request of Mr. MOYNIHAN, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 112, a bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor.

S. 173

At the request of Mr. DEWINE, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 173, a bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

S. 193

At the request of Mr. GLENN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 193, a bill to provide protections to individuals who are the human subject of research.

S. 215

At the request of Mr. JEFFORDS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 215, a bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes.

S. 261

At the request of Mr. DOMENICI, the names of the Senator from Georgia [Mr. CLELAND] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 261, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 299

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 299, a bill to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the birth of Thomas Alva Edison, to redesign the half dollar circulating coin for 1997 to commemorate Thomas Edison, and for other purposes.

S. 305

At the request of Mr. D'AMATO, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 305, a bill to authorize the President to award a gold medal on behalf of the Congress to Francis Albert "Frank" Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and humanitarian activities, and for other purposes.

S. 320

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 320, a bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 387

At the request of Mr. HATCH, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 389

At the request of Mr. ABRAHAM, the names of the Senator from Washington [Mr. GORTON] and the Senator from Wyoming [Mr. ENZI] were added as cosponsors of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 405

At the request of Mr. HATCH, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 405, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to allow greater opportunity to elect the alternative incremental credit.

S. 422

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 422, a bill to define the circumstances under which DNA samples may be collected, stored, and analyzed, and genetic information may be collected, stored, analyzed, and disclosed, to define the rights of individuals and persons with respect to genetic information, to define the responsibilities of persons with respect to genetic information, to protect individuals and families from genetic discrimination, to establish uniform rules that protect individual genetic privacy, and to establish effective mechanisms to enforce the rights and responsibilities established under this Act.

S. 432

At the request of Mr. ABRAHAM, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 432, a

bill to amend the Internal Revenue Code of 1986 to allow the designation of renewal communities, and for other purposes.

S. 492

At the request of Mr. SARBANES, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 505

At the request of Mr. HATCH, the names of the Senator from Florida [Mr. MACK], the Senator from Ohio [Mr. DEWINE], and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 505, a bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

S. 528

At the request of Mr. CAMPBELL, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 528, a bill to require the display of the POW/MIA flag on various occasions and in various locations.

S. 537

At the request of Ms. MIKULSKI, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Georgia [Mr. CLELAND], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 537, a bill to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program.

S. 561

At the request of Mr. SHELBY, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 561, a bill to require States receiving prison construction grants to implement requirements for inmates to perform work and engage in educational activities, to eliminate certain sentencing inequities for drug offenders, and for other purposes.

S. 562

At the request of Mr. D'AMATO, the names of the Senator from Kansas [Mr. ROBERTS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Utah [Mr. HATCH], and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 562, a bill to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage.

S. 597

At the request of Mr. BINGAMAN, the names of the Senator from Maine [Ms. COLLINS] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 606

At the request of Mr. HUTCHINSON, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 606, a bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors.

S. 620

At the request of Mr. GREGG, the names of the Senator from Utah [Mr. HATCH] and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 620, a bill to amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from Tennessee [Mr. FRIST] and the Senator from Oregon [Mr. SMITH] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 13

At the request of Mr. SESSIONS, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of Senate Concurrent Resolution 13, a concurrent resolution expressing the sense of Congress regarding the display of the Ten Commandments by Judge Roy S. Moore, a judge on the circuit court of the State of Alabama.

NOTICE OF HEARING

SUBCOMMITTEE ON PUBLIC HEALTH AND SAFETY

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Subcommittee on Public Health and Safety, Senate Committee on Labor and Human Resources will be held on Friday, April 25, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is "The U.S. Healthcare Workforce: Realigning to Meet the Future." For further information, please call the committee, 202/224–5375.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Wednesday, April 23, 1997, to receive testimony on the Administration's proposal on NATO enlargement.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 23, 1997, at 9:30 a.m. on the nominations of Kerri-Ann Jones of Maryland, and Jerry M. Melillo of Massachusetts, to be associate directors of the Office of Science and Technology Policy.

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

COMMITTEE ON FINANCE

Mr. HELMS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, April 23, 1997, beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HELMS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, April 23, 1997, at 10 a.m., for a hearing on S. 261, Biennial Budgeting and Appropriations Act.

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

COMMITTEE ON THE JUDICIARY

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, April 23, 1997, at 10 a.m., to hold a hearing on "Gangs—A National Crisis."

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Reauthorization of Higher Education, during the session of the Senate on Wednesday, April 23, 1997, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HELMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 23, 1997, at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTE ON MANUFACTURING AND COMPETITIVENESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Manufacturing and Competitiveness subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 23, 1997, at 10 a.m. on the current state of manufacturing in the United States.

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

ADDITIONAL STATEMENTS

EARTH DAY 1997

• Mr. DOMENICI. Mr. President, I would like to take a few moments to discuss our environment following Earth Day 1997.

In consideration of the 27th annual commemoration of Earth Day, the American people should remember that they have been fortunate to live in an industrialized and prosperous society that has afforded environmental protection. Growing consumer demand for parks, improved air quality, and open land for hunting and hiking is largely responsible for improving the quality and quantity of ecological resources. Advances in technology, production methods, and manufacturing practices, an offshoot of our economic growth, have resulted in less pollution.

However, Mr. President, Earth Day in 1970 was not the beginning of environmentalism in this Nation. Rather, it was evidence of a trend. Since the turn of the century, a strong conservation movement, led by rural interests, wanted national policy that would manage those resources they depended on to survive. Beginning with the passage of the Wilderness Act, Congress responded to those interests. In the last 27 years, the United States has continued to make great strides in improving the quality of its environment.

The United States of America has become a world leader in so many environmental areas. The Clean Air Act has been strengthened, and the Clean Water Act and the reauthorization of the Safe Drinking Water Act have improved the quality of our Nation's environment. We can take pride in the progress that has been made in the last 27 years since the first Earth day, and we have learned a great deal. We are in far better shape than we were in 1970.

According to the EPA, between 1970–95, air pollutants have decreased substantially. EPA has also observed that our rivers, lakes, and coastal waters are cleaner today than 25 years ago. Carol Browner, Administrator of the EPA, stated yesterday that the United States has the best drinking water in the world. We now recycle almost 35 percent of our municipal waste, 40 percent of all paper, and 60 percent of all aluminum cans. Our children consider recycling a way of life.

Since 1970, air pollution has been steadily declining, despite the fact that the U.S. population has increased by 28 percent and vehicle travel has increased by 116 percent. This is due in large part to advanced emissions equipment on newer cars. But we have learned as a people to change our personal habits as we demand that industry change theirs. Air pollution, for example, would continue to be greatly improved if people kept their vehicles, old and new, tuned up.

Mr. President, we know that humans will inevitably effect the environment because they are an inherent part of nature itself. We are not in a battle against the environment; rather, we now know that we are interdependent. Congress has further learned that top-down administration and imposition of regulations may not achieve the goal of true interdependence, but incentives, cooperation, respect for property rights, and more local control does. As most Americans have come to learn, if you want a better society, you build it yourself.

The term "sustainability" has come to represent our Nation's environmental goals. Activists, entrepreneurs, and scientists are being successfully linked with ecosystems. Technological advancements have shown us how to improve the environment. Programs such as the Waste-management Education and Research Consortium, or WERC, which I put together several years ago, are the future of environmental protection, not top-down regulation imposing unfunded mandates to states. Let us leave local environmental issues to the locals.

Sustainability is a goal best realized with local initiative. This Nation needs more flexible, market-oriented regulations that allow businesses more options for controlling pollution but that retain limitations on overall discharges. Concern and cooperation has bred environmental self-reliant activism.

Communities have just now been able to achieve the National Ambient Air Quality Standards, and air quality is improving. According to the EPA, air pollutants have greatly decreased since the first Earth Day. Let's let communities continue to improve, rather than impose strict and costly new air quality standards before we know that they are based in sound science. We should be proud that we are reaping the benefits of our current standards.

The working people of this country appreciate and have a healthy respect for nature. People who live on the land are closer to nature. Coming from New Mexico, I see the interdependence and cooperation of agricultural, timber, native American, urban and environmental interests. Congress has funded such programs as my initiative to preserve one of the largest areas of riparian cottonwood in the world, the Rio Grande Bosque. In the middle of a growing city like Albuquerque, citizens can walk among the native trees and animals. At the Bosque del Apache National Wildlife Refuge, rare migratory birds coexist with agricultural development. We all strive to maintain a delicate balance in our society and on our planet.

We all have to live on this planet, at least for now. Some might say progress is a curse. I say we are blessed in this Nation to be leaders in environmental protection and to also enjoy modern conveniences. Continuing progress is a blessing to all our families; we must just proceed to take care of our planet as we learn to live better in it.

This Congress will continue to work to improve environmental quality, and we will build on the experiences and successes of the past. We must promise to better our lives, our Nation, and our world. Earth Day should be every day.•

CINCINNATI TEACHER AT THE TOP

• Mr. GLENN. Mr. President, I rise with a great deal of pleasure and pride to inform my colleagues that the 1997 National Teacher of the Year is Sharon Draper, an English and language arts teacher at Walnut Hills High School in Cincinnati, OH.

Ms. Draper won the 1997 Ohio Teacher of the Year Award and was selected from four finalists to the receive the Nation's top teacher award. President Clinton presented this award at a White House ceremony.

In addition to her talents as a teacher, Ms. Draper is an accomplished award-winning author. Her novel "Tears of a Tiger" won the 1995 Corretta Scott King Genesis Award. Her second novel, "Forged By Fire," has been recently published.

Ms. Draper's dedication and outstanding commitment to education as well as her efforts to improve education are the envy of every school system and Ohio is justifiably proud of her accomplishment.

At a time when our education is under a great deal of scrutiny and in need of much improvement, it is important to remember that there are many examples of educational excellence. Certainly one outstanding example is Sharon Draper.

I had the opportunity to meet with Ms. Draper and it was an honor. I was at the White House to participate in the ceremony where she received the Teacher of the Year Award.

Ms. Draper's 25-year teaching career has been filled with creativity and enthusiasm. I understand that she requires a research paper in her senior level classes. When her students turn in their paper the day before the prom she gives them a T-shirt that proclaims "I survived the Draper paper." She says that she was probably born to be a teacher.

I am pleased that the Council of Chief State School Officers and Scholastic, Inc., have selected Ms. Draper as Teacher of the Year. I know that her students, school, the city of Cincinnati, and our State are very proud. I congratulate Sharon, her husband Larry, and children Cory and Crystal for the contribution they have made to public education.•

TRIBUTE TO CHUCK CONNER

• Mr. LUGAR. Mr. President, for 17 years Chuck Conner has been my top agriculture and nutrition advisor, and for the last 10 years has been Republican staff director of the Agriculture, Nutrition and Forestry Committee. Chuck is departing the Senate to become president of the Corn Refiners Association.

Chuck has ushered four farm bills through the Senate, including last year's historic FAIR Act that ended 60 years of Federal production controls. Chuck's work can be seen in moving American agriculture to the free market, thoughtfully downsizing the Department of Agriculture, reforming hundreds of USDA field offices, making food safer through pesticide regulations, saving and then reforming the farm credit system, updating commodity futures legislation, and landmark reform of the nutrition sections in last year's welfare reform bill.

Chuck was with me on my Indiana farm June 28, 1985, when then Secretary of Agriculture Jack Block and I announced the first Conservation Reserve Program. Today that program is still a vital cornerstone of soil and water conservation in America, and the extension of the program last year was part of the most significant environmental legislation in the 104th Congress. Chuck has been involved every step of the way.

He has combined a strong academic background, with an agricultural economics degree from the Purdue University School of Agriculture, and practical knowledge of how programs are implemented. His family continues to operate an 1100-acre corn and soybean farm in Benton County, IN. Chuck and his wife Dru maintain a herd of 100 registered Angus cows in Whitley County, IN.

Chuck and Dru met in the early 1980's while working in my office. My wife, Char, and I have enjoyed watching the growth of their four children: Katie, Ben, Andrew, and Emily.

I will miss Chuck's counsel, which Agriculture Committee members have trusted and respected. He now takes his leadership skills to agribusiness. On the committee he has hired, trained, and developed a talented staff that will be led by his longtime deputy Randy Green, maintaining continuity in service.

I speak for majority and minority members of the Agriculture Committee in wishing Chuck Conner, an extraordinarily talented and loyal friend, the very best.•

CONGRESS HAS 100 DAYS TO RESTORE IMMIGRANT BENEFITS

• Mr. KENNEDY. Mr. President, Congress has 100 days to restore urgently needed assistance to legal immigrants and refugees.

On August 1, 100 days from today, legal immigrants who have worked hard, but were injured on the job, will lose their Federal benefits under last year's so-called welfare reform law.

Refugees will lose their safety net. These are men and women who fled persecution in their own countries, only to find persecution now in America.

They are people who fought with us in Southeast Asia, and this is the thanks they get from hawks who kept the war going long after it should have stopped.

The Vietnam war and the cold war are finally over. But in the rush to forget, we cannot forget these brave families and their sacrifices, and treat them unfairly, because they are old or disabled.

In recent weeks, some needy immigrants have taken their own lives, rather than burden their families.

We must say enough is enough—100 days is long enough for Congress to undo the thoughtless damage an unthinking Congress did last year. I ask that a few recent news articles on this issue may be printed in the RECORD.

The articles follow:

[From the New York Times, Apr. 22, 1997]

CONFUSED BY LAW, NURSING HOMES BAR LEGAL IMMIGRANTS—FEAR OVER LOST BENEFITS

(By Rachel L. Swarns)

As the health care industry braces for Federal cuts that will leave thousands of immigrants without Medicaid this fall, nursing homes have begun to mistakenly deny admission to some elderly and sickly legal immigrants who will not lose their health coverage.

Bewildered by the new Federal welfare law and fearful that immigrants will default on their bills, some health care centers in New York and around the country are asking prospective patients for citizenship papers instead of residency papers upon admission, hospital and nursing home administrators say.

And while New York State health officials acknowledge that a small group of immigrants will lose Medicaid as Federal restrictions go into effect later this year, they warn that the new practice unfairly denies care to the vast majority who will keep that coverage.

But as health care administrators peer into the faces of their elderly applicants and struggle to interpret the law, some have found it easier to refuse all legal immigrants—those with green cards but not citizenship—than to figure out who will keep benefits and who will lose them.

"It's heartbreaking, but we're all too terrified to admit anybody who is not a citizen," said Sheryl Geminder, the director of admissions at the Sephardic Home for the Aged in Brooklyn, which now rejects all legal immigrants who need long-term care. "A green card was the ticket in six months ago, but now our attorneys are warning us not to take any chances.

The confusion is the unintended consequence of the changes in the Federal welfare laws, which allow states to continue Medicaid to some legal immigrants while denying coverage to others.

New York, along with at least 35 other states, plans to continue benefits to poor legal immigrants who entered the country before Aug. 22 of last year, when President Clinton signed the welfare bill. But those who have arrived since then will generally find themselves ineligible for Medicaid coverage for five years.

No one knows how many eligible immigrants have been turned away from care centers for the elderly, but health care officials in New York said that dozens had been rejected in the last month.

And administrators at public hospitals in Miami and Los Angeles, who are also reporting their first cases, fear the problem will balloon if the law is not clarified, stranding immigrants in hospital beds needed by acute-care patients.

Already, legal immigrants too sickly to bathe and too senile to recognize their children are beginning to languish in hospitals. And families who can no longer care for ailing relatives now find themselves overwhelmed with few options.

"If this continues, what will we do with these people?" asked Carol Burger, an administrator at Elmhurst Hospital Center in Queens as she searched for a place for an 83-year-old legal immigrant from Romania, one of about 20 patients rejected by nursing homes for lack of citizenship. "Where are they going to go?"

Representative E. Clay Shaw Jr., a Republican of Florida and the chief sponsor of the new welfare law, called the situation "worrisome" and said he had never intended to deny care to eligible immigrants.

By law, nursing homes may refuse patients who cannot pay their bills. But Mr. Shaw said he doubted that elderly care centers that receive Federal funds, in the form of Medicaid payments, had the right to turn away legal immigrants who were eligible for care. "There's no question that it's discrimination," he said in an interview.

Mr. Shaw said that care centers needed better guidance from state and Federal health officials and that his Congressional committee would provide it, if others did not. "I can understand their confusion," he said of the nursing homes. "But obviously, some elderly people have fallen through the cracks."

Paralyzed by a stroke that left empty spaces in her memory, Raisa Kinker, a 74-year-old legal immigrant from Ukraine, spent one month at Huntington Hospital on Long Island, rejected by one nursing home after another, until a Brooklyn rehabilitation center took her in.

Withered by the stomach cancer that has left him marooned at Elmhurst Hospital Center for two months, Lois Bejarano, 74 and a legal immigrant from Colombia, has been told not to even hope for a nursing home bed, although he, too, will keep his Medicaid coverage.

And more than 30 legal immigrants from China, many of them too crippled to walk or brush their thinning hair, recently found themselves stranded with families who could

not care for them when a Staten Island retirement home rejected their pleas for placement this month.

"These families come all the way from Chinatown and beg us to take their elderly relatives, and I've got to look in their eyes and tell them no," said Cindy Miner, the case manager at the Staten Island home, the Anna Erika Home for Adults and Assisted Living Programs, which caters to elderly Asian patients.

"We've taken these people into our country, and now when they need help, we have to turn them away," she said. "It's a horrible feeling. We'd love to take everyone, but it's just too much of a risk."

The confusion over eligibility stems, in part, from the Federal Government's distinction between "qualified" immigrants, who will keep benefits, and "nonqualified" immigrants, who will lose them.

In New York State, virtually all legal immigrants, those who arrived before Aug. 22, are considered qualified. These noncitizens, who include legal permanent residents, refugees and seekers of political asylum, will keep Medicaid, which covers nursing home costs. Even the estimated 87,000 legal immigrants expected to lose Supplemental Security Income benefits, the Federal cash payments accepted by retirement homes, will receive state funds to cover their stay, state health officials say.

The S.S.I. recipients' Medicaid status will be re-evaluated, but state officials say the coverage will continue unless the recipients are no longer poor or disabled.

Although the State Legislature has not formally passed the welfare law that includes this provision, Democrats and Republicans say there is no dispute over the issue.

"They should not be turning away this group on the basis that they will be losing Medicaid eligibility, because that will not happen," said Frances Tarlton, a spokeswoman for the State Department of Health.

But a group of about 16,000 immigrants, considered "present under color of law," who have been granted temporary residency and receive Government services, are expected to lose both Medicaid insurance and cash benefits beginning in August.

And legal immigrants who arrived on or after Aug. 22 of last year—a group that will increase over time—will be ineligible for Medicaid.

State officials said they had tried to make the distinctions clear. But health care administrators for the elderly are still frantically seeking guidance, calling politicians, reading trade newsletters and viewing Government World Wide Web sites.

"I'm getting calls from nursing homes and they're saying, 'I have a legal immigrant here. What do I do?'" said Scott Sandford, director of regulatory affairs for the New York State Health Facilities Association, a trade group that represents 290 nursing homes.

"We have been telling our members, 'You have to be really careful about someone who is not a citizen.'" Mr. Sandford said. "We assume that Governor Pataki's proposal is going to pass, but we can guarantee nothing. It's a real risk."

The perceived risk varies from institution to institution. The Cabrini Center for Nursing and Rehabilitation, a 240-bed complex in Manhattan still accepts legal immigrants. Menorah Home and Hospital for the Aged and Infirm, a 253-bed center in Brooklyn, on the other hand, has turned several away.

"Some homes are being extra careful," said James E. Piazzola, the director of social work at the Los Angeles County-University of Southern California Medical Center, which saw its first legal immigrants rejected from nursing homes six weeks ago. "Rumors are flying everywhere."

Plans to ease the new welfare law's impact have been bandied about for weeks. President Clinton wants to restore most benefits to elderly immigrants. Republicans in Congress want to give some states money to help them manage the transition. And Mayor Rudolph W. Giuliani of New York City has filed suit to keep the Federal cuts from going into effect.

But while the proposals fly, hospital administrators say some legal immigrants are already suffering. And they fear that the situation will only get worse as the summer deadline for cuts in benefits approaches.

"As we get closer to August, more and more of the facilities are going to refuse them," said Jill Lenney, the administrator of social work at Jackson Memorial Hospital in Miami. "They're going to be occupying acute-care beds, and patients who need those beds will be spending more time in the emergency room."

Without clear guidance, nursing homes and retirement homes currently refusing legal immigrants have no reason to change their new policies, advocates for nursing home patients say.

"There are obviously people who need care, who are not going to be able to get it," said Cynthia Rudder, the director of the Nursing Home Community Coalition of New York State, which advocates on behalf of nursing home residents. "They're in limbo until the state makes some determination."

In a tiny apartment in Brooklyn, a 75-year-old legal immigrant from Ukraine lives in that limbo. Rejected from the Sephardic Home for lack of citizenship, Villy Vaysman lies in bed, unable to move, his body mostly deadened by Parkinson's disease.

He is too heavy for his 76-year-old wife, Irina, to carry to the bathtub. So every morning, she washes him bit by bit, rolling him from one side to another, praying all the while that some nursing home will take him in.

"I don't have the strength to take care of a paralyzed man," she said as she wept last week. "I don't want to think that they won't take him. I don't know what we'll do."

[From the Wall Street Journal, Apr. 22, 1997]

SUICIDE SHOWS WHY WELFARE FIGHT PERSISTS—IMMIGRANT'S DEATH RAISES QUESTIONS OVER CUTS IN AID

(By Dana Milbank)

STOCKTON, CA.—A few days before his 76th birthday last month, Ignacio Munoz clambered down into a dried canal bed beneath the railroad tracks here, put a .35 caliber Colt revolver to his right temple, and pulled the trigger.

Three weeks earlier, the Mexican-born laborer, who came to America half a century ago, received an "Important Notice" from the government warning him that he might lose his $400 a month of Supplemental Security Income. The reason: Mr. Munoz, though a legal immigrant, wasn't a citizen—and therefore stood to lose his benefits because of welfare overhaul. "They're going to cut me off," he told friends after receiving the letter. "If I had a gun right now, I would kill myself."

FUNDS MAY BE RESTORED

It's difficult to know what causes any suicide, or what other demons might have haunted Mr. Munoz. But in the debate over welfare policy, the laborer's story provides just the sort of powerful anecdote that can affect the course of events in Washington. Ronald Reagan's tales of welfare queens in Cadillacs helped spark the drive that led the government to revise the welfare system last year. And now tales of hard-working immigrants like Mr. Munoz are leading policymakers from both parties to question whether some of those changes went too far.

Leaders of both parties now support restoring some of the funding cut last year from benefits for legal immigrants, although they disagree on how much. Republican legislators, under pressure from GOP governors and worried about the public relations problems that stories like Mr. Munoz's could cause, have already proposed adding back $2 billion of funding for immigrants over the next two years—mostly for SSI and food stamps. President Clinton and the Democrats are proposing adding back much more—more than $14 billion over five years. If the White House and Republican leaders are able to reach a budget agreement, it will probably include a compromise on increased immigrant funding somewhere in between.

In Mr. Munoz's case, the sad irony is that he need not have lost his benefits. The law requires immigrants to either become citizens or prove that they have worked 10 years or more in the U.S. to keep their benefits. Mr. Munoz had worked in this country since the late 1940s, and a welfare counselor told him he could obtain an exemption if he could document his employment history. That, however, would have required his patrons to acknowledge that they had employed him against the law, and Mr. Munoz considered it a matter of honor not to betray his former bosses.

"I'd rather die," he told his friend Salvador Aguierre. Lupe Marquez, another friend, explains it this way: "He really loved the patron. He got in his mind that he'd have to put the finger on his patron. That's why he died."

Mr. Munoz, whose nickname was "Nacho," was born in 1921 on a ranch in Colotlan, in the Mexican state of Jalisco, the son of a laborer. He came to the U.S., illegally at first and alone, in the late 1940s. He lived in labor camps and cheap hotels or with friends. He held a string of odd, seasonal jobs—pruning pear trees in the winter, picking olives in the fall, working in a tortilla factory, and doing landscaping and office cleaning at a local radio station. Anselmo Ambriz, who met Mr. Munoz in the fields in 1951, says his friend worked until age 70, sometimes for 10 hours a day.

Whenever he worked, he was dogged by a fear that border police would catch him. Indeed, he was once returned to Mexico but snuck back in soon after. "He thought he was a criminal," says Frank Gonzales, whose family housed Mr. Munoz at various times.

Mr. Munoz developed intense loyalty to his patrones, his employers through the 1980s: Knox LaRue and Arnold Toso. Mr. Munoz worked illegally for both men, but Mr. LaRue, under an amnesty program passed by Congress in 1996, obtained a green card and a legitimate Social Security number for him in the late '80s. "He was a very nervous little guy." Mr. LaRue recalls of the 5-foot-7 Mr. Munoz, who had bushy gray brows over sad, dark eyes. "He'd been on the lam for 40 years, looking over his shoulder."

CONSIDERED CITIZENSHIP

Mr. Munoz stopped working after 1992 and moved into the Franco Center, a big, concrete building for the elderly poor, where he took a noisy one-bedroom apartment overlooking a freeway. He paid the $184 monthly

rent with his Social Security payment of $286 and his $400 of SSI. At some point, he contemplated becoming a citizen; among the possessions in his apartment is a wrinkled, 11-page list of study questions for the exam.

Mr. Munoz never married and had no children. He spoke little English and never visited the cantinas (tavern) with his friends. He had cataract surgery in January, and walked stiffly because of arthritic legs, but friends say he showed no signs of depression.

The trouble, says Mary Serna, a neighbor, "all started with that letter he got." He showed the letter to his friend Mr. Aguierre. "I worked all my life, now they're cutting me off," Mr. Aguierre recalls Mr. Munoz saying.

He paid a visit to a local advocacy group called Concilio, where Susan Casillas offered to help him document his work history. On Monday morning, March 17, he returned unannounced to the Concilio office. Ms. Casillas asked him to return at 1 p.m. Instead, he walked that afternoon down to the railroad track, past a cement and lumber yard, through some weeds and down into the dusty canal bed. He was found bloody but still breathing just after 1 p.m., the time of his appointment at Concilio.

Mr. Munoz was buried in a simple gray coffin in a plot for the indigent in the county cemetery. The police found $717.40 in the dead man's pocket—the $1,000 in savings he had recently withdrawn from the Franco Center office, less the price of the gun.•

TRIBUTE TO EVELYN MARCONI FOR BEING AWARDED THE LIFETIME ACHIEVEMENT AWARD

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Evelyn Marconi of Portsmouth, New Hampshire, for being honored with the Lifetime Achievement Award by the Rotary Club of Portsmouth.

Evelyn has been my friend for more than a decade. I can think of no one more deserving of the recognition she is receiving by the Portsmouth Rotary Club.

She has given her life to public and community service. Evelyn has served on the Portsmouth City Council for 10 years, four of those years as assistant mayor. In 1989 she was nominated for the prestigious Norris Cotton Republican of The Year Award.

Evelyn has also been a cornerstone of business in Portsmouth and is known to everyone as she owns and operates the landmark Geno's Coffee Shop. In 1980 former U.S. Senator Gordon Humphrey recognized Evelyn's business leadership and appointed her as a delegate to the Small Business Conference where she participated in the Women in Business and Capital Formation and Retention. She also was a delegate to the New Hampshire Constitutional Convention.

Evelyn's community involvements range from organizing fundraisers to keeping the local Pierce Island Pool open for the children, to being a member of several foundations, committees and executive boards and serving as the first woman president of the Navy League of the United States.

Among her neighbors Evelyn is known as a compassionate and concerned person who makes chicken soup for the sick, helps out with babysitting and works to secure anonymous donations of food or clothing for the underprivileged. Evelyn has been known to go out in a blizzard to deliver food to shut-ins when the city's "meals on wheels" was canceled due to bad weather.

Evelyn is always willing to take responsibility, whether to organize rides to the cancer treatment center for local patients, giving rides on election day to any voter, chairing committees or helping people in need. Whatever she commits to, she always does an outstanding job.

Mr. President, Evelyn has dedicated her time, talent and energy to serving the residents of Portsmouth in an exemplary way. I am proud to know Evelyn, and to honor her outstanding community commitment, which is so important to the future and prosperity of Portsmouth. We are indeed indebted to Evelyn for her efforts in business, public service and community dedication. Congratulations to my friend, Evelyn Marconi, for this distinguished recognition. I am honored to represent her in the U.S. Senate.•

THE THEME IS FREEDOM: RECONSIDERING U.S.-SINO RELATIONS

• Mr. ASHCROFT. Mr. President, no one did more to bring peace and prosperity in our time than our 40th President, Ronald Reagan. President Reagan's economic and foreign policies gave us the longest peacetime expansion in our history and made the world safe again for democracy. But more than that, Ronald Reagan called us to our highest and best: we never spoke with more certainty or sat taller in the saddle than when Ronald Reagan was riding point.

In his farewell address, Reagan told a wonderful story, a story of a refugee and an American sailor. In the early eighties, the U.S.S. *Midway* was patrolling the South China Sea when the crew happened upon a small craft, a decrepit little boat crammed with refugees trying to make their way to America. The *Midway's* captain sent a small launch to bring the ship to safety. And as they made their way toward the tiny vessel, a refugee glimpsed a crewman on deck and called out, "Hello, American sailor. Hello freedom man."

It was, as Reagan noted, "a small moment with a big meaning." Throughout our history, America has been a nation dedicated to a proposition, a country committed to freedom—freedom of religion, of speech, of assembly, and of the press. That undying devotion has allowed us to know both wealth and power, for they are the natural fruit of the democratic ideal. From manufacturing to basic science, from aerospace to the arts, it is a material abundance and cultural vitality heretofore unseen.

And freedom is the song America has sung across the globe whether marshaling her troops or providing resources for the Marshall plan. Five times in this century patriot's blood has been spilled in the fight for freedom around the world. That is our history, it is our common calling, it is our shared wisdom.

And so as we stand on the verge of a new century, with the greatest technological and material advances mankind has ever known, we would do well to ask ourselves: how stands the cause of freedom? Not just in the Western Hemisphere, but around the world. For while America is safer, stronger, more prosperous today than at any time in recent history, a sound like a bell tolls softly in the night; and it warns of coming conflict.

Mr. President, there is a destabilizing force in the Pacific rim today—and it is not the Asian democracies. There is an entity, which through its emerging economic and military might, intends to assert its power—and it is not the Asian democracies. There is a political system that sees as its enemy the free people of the world—and it is not the Asian democracies. No, the expansionist force in Asia is Communist China, a country that cares little for international law, and even less for the sacred nature of human life.

Now, Americans have long known of the existence of evil in the human heart. And yet strangely, we are loathe to confess it. We are Jefferson's children, unrequited romantics, believers in the innate goodness of man. But experience is both the best and most expensive teacher. And it has taught us a costly lesson that I fear is being lost: "Totalitarians do not stop—they must be stopped."

Communist China is presently engaged in a military build-up that is as spectacular as it is unsettling. The weapon's bazaar open for business in Beijing includes a blue water navy and a 21st century air force that will give China the capacity to exercise power throughout the Pacific. Russia alone has sold billions of dollars of military technology to the Chinese, including cruise missile(s) capable of defeating the antimissile defenses of the United States Navy.

These force-projection technologies are not about provid[ing] for the common defense; they are about providing an uncommon capacity to project power. They threaten not just the democracies of Asia, but the American sailors of the 7th Fleet who in the name of peace call the waters of the South China Sea home.

Just as troubling as Beijing's buying binge is its decision to sell missile and nuclear technology to Pakistan, Syria,

and Iran. Over time, this equipment will allow each to produce bomb-grade uranium. Now, China contends that the sales are nothing more than a mutually agreeable exchange between sovereign nations. But the dispatch of cruise missiles to Iran has placed United States forces in harm's way. For let us recall that it was a lesser version of this same missile that took the lives of 37 American sailors aboard the U.S.S. *Stark*.

As if this were not enough, Communist China has undertaken another drive: a campaign of persecution and repression aimed at crushing internal dissent. Beijing's policies of torture, arbitrary arrest, and execution in Tibet have made horror ordinary.

Today, the President has an opportunity to challenge state persecution and champion individual freedom by formally receiving the Dalai Lama. Unfortunately, administration thinking on his visit seems as muddled as our China policy itself. Why is it that the President has an open door policy for Chinese arms dealers, but the Dalai Lama must be slipped through the White House back door? We should embrace the people of China who yearn to breathe free, not toast the tyrants who ordered tanks into Tiananmen Square.

Or, consider the case of Bishop Su. Hung from the ceiling by his wrists, Su was battered time and again about the head until all but unconscious. He was then placed in a cell filled with water where he was left for days, unable to sit or [to] sleep. Tragically, Su is but one of untold hundreds that have been beaten and killed. Their high crime? A fidelity to God and the desire to exercise that devotion.

And who will condemn such barbarism? The administration has made not a sound. Well, I would respectively remind them that to sin by silence makes cowards out of men; and an act of cowardice this great has not been seen since Hemingway's Macumber heard the lion's roar.

As for United States exporters, there is little denying trade with China has been of great value. United States goods and services exports to China have increased from $3.5 billion to over $14 billion in the last decade alone. From power generation equipment to automotive parts, China has pursued Western consumer goods as a means by which to fuel its military expansion. The West has willingly obliged. But at what cost, and to what end?

Chinese import duties are still five times higher on average than those imposed by the United States and quadruple those of Japan. Nearly half of Chinese imports are subject to further barriers. And certain key industries such as electronics, aircraft, and telecommunications are shielded from competition altogether. It would seem that 18th century mercantilism is alive and well in 20th century China.

Mr. President, China's trade policies are about selective market access that ensure merchandise trade deficits as far as the eye can see; on human rights, Beijing is showing the world a reign of terror unparalleled in the post-cold-war era; and a tour of the Pacific rim's horizon finds a Chinese defense buildup aimed at achieving superpower status at the Asian democracies, expense.

So what, then, is to be done? Just a decade ago, the vast majority of the Congress seemed to understand who our enemies were and why. But some in Washington today seem confused about what is a decent political system and what is not, which philosophies should be embraced or rejected, what is right and what is wrong.

We will never tame the Chinese dragon—no more than we subdued the Soviet bear—with the policies of appeasement. The way to bring China into the community of nations, as Michael Ledeen and others have argued, is to talk truthfully and forcefully about the evils found there; challenge Beijing to grant more political and economic freedom to its people; and maintain a military superiority that makes the cost of conflict too high.

There is an old Chinese proverb which says, "When you want to test the depth of a stream, do not use both feet." To end diplomatic ties and cease trading with the most populous nation on Earth would be the march of folly. I do believe, however, that we must look anew at both the granting of most favored nation [MFN] status as well as China's acceptance into the World Trade Organization [WTO].

For we are now approaching a critically important stage in United States-Sino relations as a new generation of leadership leaps forward. They must know that adventurism in Asia will meet a firm response. They must know we will not sanction the injuries and usurpations that the Chinese people have suffered at the hands of the state. They must know that we will support and defend democracy.

The theme is freedom. And the fundamental principle upon which we should base U.S. trade policy is this: Truly free trade can only exist between free peoples. And the Chinese who watched treachery take hold in Tiananmen are most certainly not free.

More than 300 years before the U.S.S. *Midway* patrolled the South China Sea, there was a great Puritan migration to a land called America. And on board a very different ship, the *Arbella*, John Winthrop preached a sermon entitled, "A Modell of Christian Charity." In it, he laid out his expectations for the new colony; he spoke that, "every man might have need of other" and of a world "knit more nearly together by the bond of brotherly affection."

Winthrop was an early freedom man and his, like Reagan's, was a transcendent vision. The society he foresaw was a true commonwealth, a community in which each person put the good of the whole ahead of private concern. It should not surprise us, then, that Winthrop's words upon arriving in America were some of Reagan's most frequently quoted: "We shall be a city upon a hill, the eyes of all people are upon us."

Well, the eyes of all people are upon us again. And the question they ask? Will America continue to stand for freedom? Or, will she fall captive to policies born of confusion and conciliation. The answer we send will tell much about how brightly our city still shines.

For we stand on the cusp of a new and exciting age. By all accounts, this has been the American century. The ideals that light our city have found comfort's warm embrace across the globe; democracy has triumphed; market capitalism reigns supreme. But alas, China's shadow looms large. And the decisions of today will determine whether America alone will shape the tomorrows in which we live. So let us resolve to once again hoist up the flag of freedom. Let us resolve to extol the virtues of democracy to all who will listen. And not because democracy is our form of government, but because democracy is the only peaceful form of government. With the hope that one day the long tug of memory might look favorably upon us as we look approvingly on the generations who answered freedom's call in decades passed.●

ORDERS FOR THURSDAY, APRIL 24, 1997

Mr. KYL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Thursday, April 24. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of the Chemical Weapons Convention treaty.

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

PROGRAM

Mr. KYL. Mr. President, for the information of all Senators, tomorrow, at 10 a.m., the Senate will resume consideration of the Chemical Weapons Convention treaty. I remind all Senators that from 10:30 to 12:30 the Senate will conduct its business in a closed session of the Senate in the Old Senate Chamber to hear debate on sensitive intelligence issues. With that in mind, I ask all Senators to arrive promptly

at the Old Senate Chamber at 10:30 tomorrow morning. Under the agreement, tomorrow there will be five motions to strike in order to the resolution of ratification with 1 hour of debate equally divided between the chairman and ranking member, or their designees. Therefore, Senators should anticipate rollcall votes throughout Thursday's session of the Senate and possibly into the evening, if necessary, to complete action on this treaty.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KYL. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:06 p.m., adjourned until Thursday, April 24, 1997, at 10 a.m.