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S. RES. 17

On the ratification of the Chemical Weapons Convention.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. LUGAR submitted the following resolution; which was referred to the
Committee on Foreign Relations

RESOLUTION

On the ratification of the Chemical Weapons Convention.

1 *Resolved*, That (a) the Senate hereby expresses its in-
2 tention to give its advice and consent to the ratification
3 of the Chemical Weapons Convention at the appropriate
4 time after the Senate has proceeded to the consideration
5 of the Convention, subject to the conditions of subsection
6 (b) and the declarations of subsection (c):

7 (b) CONDITIONS.—It is the sense of the Senate that
8 the advice and consent of the Senate to the ratification
9 of the Convention should be subject to the following condi-
10 tions, which would be binding upon the President:

11 (1) AMENDMENT CONFERENCES.—The United
12 States will be present and participate fully in all

1 Amendment Conferences and will cast its vote, either
2 affirmatively or negatively, on all proposed amend-
3 ments made at such conferences, to ensure that—

4 (A) the United States has an opportunity
5 to consider any and all amendments in accord-
6 ance with its Constitutional processes; and

7 (B) no amendment to the Convention en-
8 ters into force without the approval of the Unit-
9 ed States.

10 (2) PRESIDENTIAL CERTIFICATION ON DATA
11 DECLARATIONS.—(A) Not later than 10 days after
12 the Convention enters into force, or not later than
13 10 days after the deposit of the Russian instrument
14 of ratification of the Convention, whichever is later,
15 the President shall either—

16 (i) certify to the Senate that Russia has
17 complied satisfactorily with the data declaration
18 requirements of the Wyoming Memorandum of
19 Understanding; or

20 (ii) submit to the Senate a report on ap-
21 parent discrepancies in Russia’s data under the
22 Wyoming Memorandum of Understanding and
23 the results of any bilateral discussions regard-
24 ing those discrepancies.

1 (B) For purposes of this paragraph, the term
2 “Wyoming Memorandum of Understanding” means
3 the Memorandum of Understanding Between the
4 Government of the United States of America and
5 the Government of the Union of Soviet Socialist Re-
6 publics Regarding a Bilateral Verification Experi-
7 ment and Data Exchange Related to Prohibition on
8 Chemical Weapons, signed at Jackson Hole, Wyo-
9 ming, on September 23, 1989.

10 (3) PRESIDENTIAL CERTIFICATION ON THE BI-
11 LATERAL DESTRUCTION AGREEMENT.—Before the
12 deposit of the United States instrument of ratifica-
13 tion of the Convention, the President shall certify in
14 writing to the Senate that—

15 (A) a United States-Russian agreement on
16 implementation of the Bilateral Destruction
17 Agreement has been or will shortly be con-
18 cluded, and that the verification procedures
19 under that agreement will meet or exceed those
20 mandated by the Convention, or

21 (B) the Technical Secretariat of the Orga-
22 nization for the Prohibition of Chemical Weap-
23 ons will be prepared, when the Convention en-
24 ters into force, to submit a plan for meeting the
25 Organization’s full monitoring responsibilities

1 that will include United States and Russian fa-
2 cilities as well as those of other parties to the
3 Convention.

4 (4) NONCOMPLIANCE.—If the President deter-
5 mines that a party to the Convention is in violation
6 of the Convention and that the actions of such party
7 threaten the national security interests of the United
8 States, the President shall—

9 (A) consult with, and promptly submit a
10 report to, the Senate detailing the effect of such
11 actions on the Convention;

12 (B) seek on an urgent basis a meeting at
13 the highest diplomatic level with the Organiza-
14 tion for the Prohibition of Chemical Weapons
15 (in this resolution referred to as the “Organiza-
16 tion”) and the noncompliant party with the ob-
17 jective of bringing the noncompliant party into
18 compliance;

19 (C) in the event that a party to the Con-
20 vention is determined not to be in compliance
21 with the Convention, request consultations with
22 the Organization on whether to—

23 (i) restrict or suspend the noncompli-
24 ant party’s rights and privileges under the

1 Convention until the party complies with
2 its obligations;

3 (ii) recommend collective measures in
4 conformity with international law; or

5 (iii) bring the issue to the attention of
6 the United Nations General Assembly and
7 Security Council; and

8 (D) in the event that noncompliance con-
9 tinues, determine whether or not continued ad-
10 herence to the Convention is in the national se-
11 curity interests of the United States and so in-
12 form the Senate.

13 (5) FINANCING IMPLEMENTATION.—The Unit-
14 ed States understands that in order to ensure the
15 commitment of Russia to destroy its chemical stock-
16 piles, in the event that Russia ratifies the Conven-
17 tion, Russia must maintain a substantial stake in fi-
18 nancing the implementation of the Convention. The
19 costs of implementing the Convention should be
20 borne by all parties to the Convention. The deposit
21 of the United States instrument of ratification of the
22 Convention shall not be contingent upon the United
23 States providing financial guarantees to pay for im-
24 plementation of commitments by Russia or any
25 other party to the Convention.

1 (6) IMPLEMENTATION ARRANGEMENTS.—If the
2 Convention does not enter into force or if the Con-
3 vention comes into force with the United States hav-
4 ing ratified the Convention but with Russia having
5 taken no action to ratify or accede to the Conven-
6 tion, then the President shall, if he plans to imple-
7 ment reductions of United States chemical forces as
8 a matter of national policy or in a manner consistent
9 with the Convention—

10 (A) consult with the Senate regarding the
11 effect of such reductions on the national secu-
12 rity of the United States; and

13 (B) take no action to reduce the United
14 States chemical stockpile at a pace faster than
15 that currently planned and consistent with the
16 Convention until the President submits to the
17 Senate his determination that such reductions
18 are in the national security interests of the
19 United States.

20 (7) PRESIDENTIAL CERTIFICATION AND RE-
21 PORT ON NATIONAL TECHNICAL MEANS.—Not later
22 than 90 days after the deposit of the United States
23 instrument of ratification of the Convention, the
24 President shall certify that the United States Na-
25 tional Technical Means and the provisions of the

1 Convention on verification of compliance, when
2 viewed together, are sufficient to ensure effective
3 verification of compliance with the provisions of the
4 Convention. This certification shall be accompanied
5 by a report, which may be supplemented by a classi-
6 fied annex, indicating how the United States Na-
7 tional Technical Means, including collection, process-
8 ing and analytic resources, will be marshalled, to-
9 gether with the Convention's verification provisions,
10 to ensure effective verification of compliance. Such
11 certification and report shall be submitted to the
12 Committee on Foreign Relations, the Committee on
13 Appropriations, the Committee on Armed Services,
14 and the Select Committee on Intelligence of the Sen-
15 ate.

16 (c) DECLARATIONS.—It is the sense of the Senate
17 that the advice and consent of the Senate to ratification
18 of the Convention should be subject to the following dec-
19 larations, which would express the intent of the Senate:

20 (1) TREATY INTERPRETATION.—The Senate af-
21 firms the applicability to all treaties of the constitu-
22 tionally based principles of treaty interpretation set
23 forth in Condition (1) of the Resolution of Ratifica-
24 tion with respect to the INF Treaty, approved by
25 the Senate on May 27, 1988. For purposes of this

1 declaration, the term “INF Treaty” refers to the
2 Treaty Between the United States of America and
3 the Union of Soviet Socialist Republics on the Elimination
4 of Their Intermediate-Range and Shorter
5 Range Missiles, together with the related memorandum
6 of understanding and protocols, approved by
7 the Senate on May 27, 1988.

8 (2) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider
9 for approval international agreements that
10 would obligate the United States to reduce or limit
11 the Armed Forces or armaments of the United
12 States in a militarily significant manner only pursuant
13 to the treaty power set forth in Article II, Section
14 2, Clause 2 of the Constitution.
15

16 (3) RETALIATORY POLICY.—The Senate declares
17 that the United States should strongly reiterate
18 its retaliatory policy that the use of chemical
19 weapons against United States military forces or
20 civilians would result in an overwhelming and
21 devastating response, which may include the whole
22 range of available weaponry.

23 (4) CHEMICAL DEFENSE PROGRAM.—The Senate
24 declares that ratification of the Convention will
25 not obviate the need for a robust, adequately funded

1 chemical defense program, together with improved
2 national intelligence capabilities in the nonprolifera-
3 tion area, maintenance of an effective deterrent
4 through capable conventional forces, trade-enabling
5 export controls, and other capabilities. In giving its
6 advice and consent to ratification of the Convention,
7 the Senate does so with full appreciation that the
8 entry into force of the Convention enhances the re-
9 sponsibility of the Senate to ensure that the United
10 States continues an effective and adequately funded
11 chemical defense program. The Senate further de-
12 clares that the United States should continue to de-
13 velop theater missile defense to intercept ballistic
14 missiles that might carry chemical weapons and
15 should enhance defenses of the United States Armed
16 Forces against the use of chemical weapons in the
17 field.

18 (5) ENFORCEMENT POLICY.—The Senate urges
19 the President to pursue compliance questions under
20 the Convention vigorously and to seek international
21 sanctions if a party to the Convention does not com-
22 ply with the Convention, including the “obligation to
23 make every reasonable effort to demonstrate its com-
24 pliance with this Convention”, pursuant to para-
25 graph 11 of Article IX. It should not be necessary

1 to prove the noncompliance of a party to the Con-
2 vention before the United States raises issues bilat-
3 erally or in appropriate international fora and takes
4 appropriate actions.

5 (6) APPROVAL OF INSPECTORS.—The Senate
6 expects that the United States will exercise its right
7 to reject a proposed inspector or inspection assistant
8 when the facts indicate that this person is likely to
9 seek information to which the inspection team is not
10 entitled or to mishandle information that the team
11 obtains.

12 (7) ASSISTANCE TO RUSSIA.—The Senate de-
13 clares that, if the United States provides limited fi-
14 nancial assistance for the destruction of Russian
15 chemical weapons, the United States should, in ex-
16 change for such assistance, require Russia to destroy
17 its chemical weapons stocks at a proportional rate to
18 the destruction of United States chemical weapons
19 stocks, and to take the action before the Convention
20 deadline. In addition, the Senate urges the President
21 to request Russia to allow inspections of former mili-
22 tary facilities that have been converted to commer-
23 cial production, given the possibility that these
24 plants could one day be reconverted to military use,
25 and that any United States assistance for the de-

1 construction of the Russian chemical stockpile be appor-
2 tioned according to Russia's openness to these broad
3 based inspections.

4 (8) EXPANDING CHEMICAL ARSENALS IN COUN-
5 TRIES NOT PARTY TO THE CHEMICAL WEAPONS CON-
6 VENTION.—It is the sense of the Senate that, if dur-
7 ing the time the Convention remains in force the
8 President determines that there has been an expan-
9 sion of the chemical weapons arsenals of any country
10 not a party to the Convention so as to jeopardize the
11 supreme national interests of the United States,
12 then the President should consult on an urgent basis
13 with the Senate to determine whether adherence to
14 the Convention remains in the national interest of
15 the United States.

16 (9) COMPLIANCE.—Concerned by the clear pat-
17 tern of Soviet noncompliance with arms control
18 agreements and continued cases of noncompliance by
19 Russia, the Senate declares the following:

20 (A) The Convention is in the interest of
21 the United States only if both the United
22 States and Russia, among others, are in strict
23 compliance with the terms of the Convention as
24 submitted to the Senate for its advice and con-
25 sent to ratification, such compliance being

1 measured by performance and not by efforts,
2 intentions, or commitments to comply.

3 (B)(i) Given its concern about compliance
4 issues, the Senate expects the President to offer
5 regular briefings, but not less than several
6 times a year, to the Committees on Foreign Re-
7 lations and Armed Services and the Select Com-
8 mittee on Intelligence of the Senate on compli-
9 ance issues related to the Convention. Such
10 briefings shall include a description of all Unit-
11 ed States efforts in diplomatic channels and bi-
12 lateral as well as the multilateral Organization
13 fora to resolve the compliance issues and shall
14 include, but would not necessarily be limited to
15 a description of—

16 (I) any compliance issues, other than
17 those requiring challenge inspections, that
18 the United States plans to raise with the
19 Organization; and

20 (II) any compliance issues raised at
21 the Organization, within 30 days.

22 (ii) Any Presidential determination that
23 Russia is in noncompliance with the Convention
24 shall be transmitted to the committees specified
25 in clause (i) within 30 days of such a deter-

1 mination, together with a written report, includ-
2 ing an unclassified summary, explaining why it
3 is in the national security interests of the Unit-
4 ed States to continue as a party to the Conven-
5 tion.

6 (10) SUBMISSION OF FUTURE AGREEMENTS AS
7 TREATIES.—The Senate declares that after the Sen-
8 ate gives its advice and consent to ratification of the
9 Convention, any agreement or understanding which
10 in any material way modifies, amends, or reinter-
11 prets United States and Russian obligations, or
12 those of any other country, under the Convention,
13 including the time frame for implementation of the
14 Convention, should be submitted to the Senate for
15 its advice and consent to ratification.

16 (11) RIOT CONTROL AGENTS.—(A) The Senate,
17 recognizing that the Convention’s prohibition on the
18 use of riot control agents as a “method of warfare”
19 precludes the use of such agents against combatants,
20 including use for humanitarian purposes where com-
21 batants and noncombatants intermingled, urges the
22 President—

23 (i) to give high priority to continuing ef-
24 forts to develop effective nonchemical, nonlethal
25 alternatives to riot control agents for use in sit-

1 uations where combatants and noncombatants
2 are intermingled; and

3 (ii) to ensure that the United States ac-
4 tively participates with other parties to the Con-
5 vention in any reassessment of the appropriate-
6 ness of the prohibition as it might apply to such
7 situations as the rescue of drowned air crews
8 and passengers and escaping prisoners or in sit-
9 uations in which civilians are being used to
10 mask or screen attacks.

11 (B) For purposes of this paragraph, the term
12 “riot control agents” is used within the meaning of
13 Article II(4) of the Convention.

14 (d) DEFINITION.—For purposes of this resolution,
15 the term “Chemical Weapons Convention” and the term
16 “Convention” refer to the Convention on the Prohibition
17 of Development, Production, Stockpiling and Use of
18 Chemical Weapons and on their Destruction, opened for
19 signature and signed by the United States at Paris on
20 January 13, 1993, including the following annexes and as-
21 sociated documents, all such documents being integral
22 parts of and collectively referred to in this resolution as
23 the “Convention” (contained in Treaty Document 103–
24 21):

25 (1) The Annex on Chemicals.

1 (2) The Annex on Implementation and Verifica-
2 tion (also known as the “Verification Annex”).

3 (3) The Annex on the Protection of Confiden-
4 tial Information (also known as the “Confidentiality
5 Annex”).

6 (4) The Resolution Establishing the Pre-
7 paratory Commission for the Organization for the
8 Prohibition of Chemical Weapons.

9 (5) The Text on the Establishment of a Pre-
10 paratory Commission.

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