

105TH CONGRESS
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S. EXEC. RES. 75

To advise and consent to the ratification of the Chemical Weapons Convention, subject to certain conditions.

IN THE SENATE OF THE UNITED STATES

APRIL 17, 1997

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

EXECUTIVE RESOLUTION

To advise and consent to the ratification of the Chemical Weapons Convention, subject to certain conditions.

1 *Resolved (two-thirds of the Senators present concur-*
2 *ring therein),*

3 **SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO**
4 **CONDITIONS.**

5 The Senate advises and consents to the ratification
6 of the Chemical Weapons Convention (as defined in sec-
7 tion 3 of this resolution), subject to the conditions in sec-
8 tion 2.

1 **SEC. 2. CONDITIONS.**

2 The Senate's advice and consent to the ratification
3 of the Chemical Weapons Convention is subject to the fol-
4 lowing conditions, which shall be binding upon the Presi-
5 dent:

6 (1) **EFFECT OF ARTICLE XXII.**—Upon the de-
7 posit of the United States instrument of ratification,
8 the President shall certify to the Congress that the
9 United States has informed all other States Parties
10 to the Convention that the Senate reserves the right,
11 pursuant to the Constitution of the United States,
12 to give its advice and consent to ratification of the
13 Convention subject to reservations, notwithstanding
14 Article XXII of the Convention.

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

24 (3) **ESTABLISHMENT OF AN INTERNAL OVER-**
25 **SIGHT OFFICE.**—

1 (A) CERTIFICATION.—Not later than 240
2 days after the deposit of the United States in-
3 strument of ratification, the President shall cer-
4 tify to the Congress that the current internal
5 audit office of the Preparatory Commission has
6 been expanded into an independent internal
7 oversight office whose functions will be trans-
8 ferred to the Organization for the Prohibition
9 of Chemical Weapons upon the establishment of
10 the Organization. The independent internal
11 oversight office shall be obligated to protect
12 confidential information pursuant to the obliga-
13 tions of the Confidentiality Annex. The inde-
14 pendent internal oversight office shall—

15 (i) make investigations and reports re-
16 lating to all programs of the Organization;

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

19 (I) an annual assessment verify-
20 ing that classified and confidential in-
21 formation is stored and handled se-
22 curely pursuant to the general obliga-
23 tions set forth in Article VIII and in
24 accordance with all provisions of the

1 Annex on the Protection of Confiden-
2 tial Information; and

3 (II) an annual assessment of lab-
4 oratories established pursuant to
5 paragraph 55 of Part II of the Ver-
6 ification Annex to ensure that the Di-
7 rector General of the Technical Sec-
8 retariat is carrying out his functions
9 pursuant to paragraph 56 of Part II
10 of the Verification Annex;

11 (iii) undertake performance evalua-
12 tions annually to ensure the Organization
13 has complied to the extent practicable with
14 the recommendations of the independent
15 internal oversight office;

16 (iv) have access to all records relating
17 to the programs and operations of the Or-
18 ganization;

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

21 (vi) be required to protect the identity
22 of, and prevent reprisals against, all com-
23 plainants.

24 (B) COMPLIANCE WITH RECOMMENDA-
25 TIONS.—The Organization shall ensure, to the

1 extent practicable, compliance with rec-
2 ommendations of the independent internal over-
3 sight office, and shall ensure that annual and
4 other relevant reports by the independent inter-
5 nal oversight office are made available to all
6 member states pursuant to the requirements es-
7 tablished in the Confidentiality Annex.

8 (C) WITHHOLDING A PORTION OF CON-
9 TRIBUTIONS.—Until a certification is made
10 under subparagraph (A), 50 percent of the
11 amount of United States contributions to the
12 regular budget of the Organization assessed
13 pursuant to paragraph 7 of Article VIII shall
14 be withheld from disbursement, in addition to
15 any other amounts required to be withheld from
16 disbursement by any other provision of law.

17 (D) ASSESSMENT OF FIRST YEAR CON-
18 TRIBUTIONS.—Notwithstanding the require-
19 ments of this paragraph, for the first year of
20 the Organization's operation, ending on April
21 29, 1998, the United States shall make its full
22 contribution to the regular budget of the Orga-
23 nization assessed pursuant to paragraph 7 of
24 Article VIII.

1 (E) DEFINITION.—For purposes of this
2 paragraph, the term “internal oversight office”
3 means the head of an independent office (or
4 other independent entity) established by the Or-
5 ganization to conduct and supervise objective
6 audits, inspections, and investigations relating
7 to the programs and operations of the Organi-
8 zation.

9 (4) COST SHARING ARRANGEMENTS.—

10 (A) ANNUAL REPORTS.—Prior to the de-
11 posit of the United States instrument of ratifi-
12 cation, and annually thereafter, the President
13 shall submit a report to Congress identifying all
14 cost-sharing arrangements with the Organiza-
15 tion.

16 (B) COST-SHARING ARRANGEMENT RE-
17 QUIRED.—The United States shall not under-
18 take any new research or development expendi-
19 tures for the primary purpose of refining or im-
20 proving the Organization’s regime for verifica-
21 tion of compliance under the Convention, in-
22 cluding the training of inspectors and the provi-
23 sion of detection equipment and on-site analysis
24 sampling and analysis techniques, or share the
25 articles, items, or services resulting from any

1 research and development undertaken pre-
2 viously, without first having concluded and sub-
3 mitted to the Congress a cost-sharing arrange-
4 ment with the Organization.

5 (C) CONSTRUCTION.—Nothing in this
6 paragraph may be construed as limiting or con-
7 stricting in any way the ability of the United
8 States to pursue unilaterally any project under-
9 taken solely to increase the capability of the
10 United States means for monitoring compliance
11 with the Convention.

12 (5) INTELLIGENCE SHARING AND SAFE-
13 GUARDS.—

14 (A) PROVISION OF INTELLIGENCE INFOR-
15 MATION TO THE ORGANIZATION.—

16 (i) IN GENERAL.—No United States
17 intelligence information may be provided to
18 the Organization or any organization affili-
19 ated with the Organization, or to any offi-
20 cial or employee thereof, unless the Presi-
21 dent certifies to the appropriate commit-
22 tees of Congress that the Director of
23 Central Intelligence, in consultation with
24 the Secretary of State and the Secretary of
25 Defense, has established and implemented

1 procedures, and has worked with the Orga-
2 nization to ensure implementation of pro-
3 cedures, for protecting from unauthorized
4 disclosure United States intelligence
5 sources and methods connected to such in-
6 formation. These procedures shall include
7 the requirement of—

8 (I) the offer and provision of ad-
9 vice and assistance to the Organiza-
10 tion in establishing and maintaining
11 the necessary measures to ensure that
12 inspectors and other staff members of
13 the Technical Secretariat meet the
14 highest standards of efficiency, com-
15 petence, and integrity, pursuant to
16 paragraph 1(b) of the Confidentiality
17 Annex, and in establishing and main-
18 taining a stringent regime governing
19 the handling of confidential informa-
20 tion by the Technical Secretariat, pur-
21 suant to paragraph 2 of the Confiden-
22 tiality Annex;

23 (II) a determination that any un-
24 authorized disclosure of United States
25 intelligence information to be provided

1 to the Organization or any organiza-
2 tion affiliated with the Organization,
3 or any official or employee thereof,
4 would result in no more than minimal
5 damage to United States national se-
6 curity, in light of the risks of the un-
7 authorized disclosure of such informa-
8 tion;

9 (III) sanitization of intelligence
10 information that is to be provided to
11 the Organization to remove all infor-
12 mation that could betray intelligence
13 sources and methods; and

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

19 (ii) WAIVER AUTHORITY.—

20 (I) IN GENERAL.—The Director
21 of Central Intelligence may waive the
22 application of clause (i) if the Director
23 of Central Intelligence certifies in
24 writing to the appropriate committees
25 of Congress that providing such infor-

1 mation to the Organization or an or-
2 ganization affiliated with the Organi-
3 zation, or to any official or employee
4 thereof, is in the vital national secu-
5 rity interests of the United States and
6 that all possible measures to protect
7 such information have been taken, ex-
8 cept that such waiver must be made
9 for each instance such information is
10 provided, or for each such document
11 provided. In the event that multiple
12 waivers are issued within a single
13 week, a single certification to the ap-
14 propriate committees of Congress may
15 be submitted, specifying each waiver
16 issued during that week.

17 (II) DELEGATION OF DUTIES.—

18 The Director of Central Intelligence
19 may not delegate any duty of the Di-
20 rector under this paragraph.

21 (B) PERIODIC AND SPECIAL REPORTS.—

22 (i) IN GENERAL.—The President shall
23 report periodically, but not less frequently
24 than semiannually, to the Select Commit-
25 tee on Intelligence of the Senate and the

1 Permanent Select Committee on Intel-
2 ligence of the House of Representatives on
3 the types and volume of intelligence infor-
4 mation provided to the Organization or af-
5 filiated organizations and the purposes for
6 which it was provided during the period
7 covered by the report.

8 (ii) EXEMPTION.—For purposes of
9 this subparagraph, intelligence information
10 provided to the Organization or affiliated
11 organizations does not cover information
12 that is provided only to, and only for the
13 use of, appropriately cleared United States
14 Government personnel serving with the Or-
15 ganization or an affiliated organization.

16 (C) SPECIAL REPORTS.—

17 (i) REPORT ON PROCEDURES.—Ac-
18 companying the certification provided pur-
19 suant to subparagraph (A)(i), the Presi-
20 dent shall provide a detailed report to the
21 Select Committee on Intelligence of the
22 Senate and the Permanent Select Commit-
23 tee on Intelligence of the House of Rep-
24 resentatives identifying the procedures es-
25 tablished for protecting intelligence sources

1 and methods when intelligence information
2 is provided pursuant to this section.

3 (ii) REPORTS ON UNAUTHORIZED DIS-
4 CLOSURES.—The President shall submit a
5 report to the Select Committee on Intel-
6 ligence of the Senate and the Permanent
7 Select Committee on Intelligence of the
8 House of Representatives within 15 days
9 after it has become known to the United
10 States Government regarding any unau-
11 thorized disclosure of intelligence provided
12 by the United States to the Organization.

13 (D) DELEGATION OF DUTIES.—The Presi-
14 dent may not delegate or assign the duties of
15 the President under this section.

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

19 (i) impair or otherwise affect the au-
20 thority of the Director of Central Intel-
21 ligence to protect intelligence sources and
22 methods from unauthorized disclosure pur-
23 suant to section 103(c)(5) of the National
24 Security Act of 1947 (50 U.S.C. 403-
25 3(c)(5)); or

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

4 (F) DEFINITIONS.—In this section:

5 (i) APPROPRIATE COMMITTEES OF
6 CONGRESS.—The term “appropriate com-
7 mittees of Congress” means the Committee
8 on Foreign Relations and the Select Com-
9 mittee on Intelligence of the Senate and
10 the Committee on International Relations
11 and the Permanent Select Committee on
12 Intelligence of the House of Representa-
13 tives.

14 (ii) ORGANIZATION.—The term “Or-
15 ganization” means the Organization for
16 the Prohibition of Chemical Weapons es-
17 tablished under the Convention and in-
18 cludes any organ of that Organization and
19 any board or working group, such as the
20 Scientific Advisory Board, that may be es-
21 tablished by it.

22 (iii) ORGANIZATION AFFILIATED WITH
23 THE ORGANIZATION.—The terms “organi-
24 zation affiliated with the Organization”
25 and “affiliated organizations” include the

1 Provisional Technical Secretariat under the
2 Convention and any laboratory certified by
3 the Director-General of the Technical Sec-
4 retariat as designated to perform analytical
5 or other functions.

6 (6) AMENDMENTS TO THE CONVENTION.—

7 (A) VOTING REPRESENTATION OF THE
8 UNITED STATES.—A United States representa-
9 tive will be present at all Amendment Con-
10 ferences and will cast a vote, either affirmative
11 or negative, on all proposed amendments made
12 at such conferences.

13 (B) SUBMISSION OF AMENDMENTS AS
14 TREATIES.—The President shall submit to the
15 Senate for its advice and consent to ratification
16 under Article II, Section 2, Clause 2 of the
17 Constitution of the United States any amend-
18 ment to the Convention adopted by an Amend-
19 ment Conference.

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

22 (A) DECLARATION.—The Senate declares
23 that the collapse of the informal forum of states
24 known as the “Australia Group,” either
25 through changes in membership or lack of com-

1 pliance with common export controls, or the
2 substantial weakening of common Australia
3 Group export controls and non-proliferation
4 measures in force on the date of United States
5 ratification of the Convention, would constitute
6 a fundamental change in circumstances to Unit-
7 ed States ratification of the Convention.

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

12 (i) nothing in the Convention obligates
13 the United States to accept any modifica-
14 tion, change in scope, or weakening of its
15 national export controls;

16 (ii) the United States understands
17 that the maintenance of national restric-
18 tions on trade in chemicals and chemical
19 production technology is fully compatible
20 with the provisions of the Convention, in-
21 cluding Article XI(2), and solely within the
22 sovereign jurisdiction of the United States;

23 (iii) the Convention preserves the
24 right of State Parties, unilaterally or col-
25 lectively, to maintain or impose export con-

1 trols on chemicals and related chemical
2 production technology for foreign policy or
3 national security reasons, notwithstanding
4 Article XI(2); and

5 (iv) each Australia Group member, at
6 the highest diplomatic levels, has officially
7 communicated to the United States Gov-
8 ernment its understanding and agreement
9 that export control and nonproliferation
10 measures which the Australia Group has
11 undertaken are fully compatible with the
12 provisions of the Convention, including Ar-
13 ticle XI(2), and its commitment to main-
14 tain in the future such export controls and
15 nonproliferation measures against non-
16 Australia Group members.

17 (C) ANNUAL CERTIFICATION.—

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

21 (I) Australia Group members
22 continue to maintain an equally effec-
23 tive or more comprehensive control
24 over the export of toxic chemicals and
25 their precursors, dual-use processing

1 equipment, human, animal and plant
2 pathogens and toxins with potential
3 biological weapons application, and
4 dual-use biological equipment, as that
5 afforded by the Australia Group as of
6 the date of ratification of the Conven-
7 tion by the United States; and

8 (II) the Australia Group remains
9 a viable mechanism for limiting the
10 spread of chemical and biological
11 weapons-related materials and tech-
12 nology, and that the effectiveness of
13 the Australia Group has not been un-
14 dermined by changes in membership,
15 lack of compliance with common ex-
16 port controls and nonproliferation
17 measures, or the weakening of com-
18 mon controls and nonproliferation
19 measures, in force as of the date of
20 ratification of the Convention by the
21 United States.

22 (ii) CONSULTATION WITH SENATE RE-
23 QUIRED.—In the event that the President
24 is, at any time, unable to make the certifi-
25 cations described in clause (i), the Presi-

1 dent shall consult with the Senate for the
2 purposes of obtaining a resolution of con-
3 tinued adherence to the Convention, not-
4 withstanding the fundamental change in
5 circumstance.

6 (D) PERIODIC CONSULTATION WITH CON-
7 GRESSIONAL COMMITTEES.—The President
8 shall consult periodically, but not less fre-
9 quently than twice a year, with the Committee
10 on Foreign Relations of the Senate and the
11 Committee on International Relations of the
12 House of Representatives, on Australia Group
13 export control and nonproliferation measures. If
14 any Australia Group member adopts a position
15 at variance with the certifications and under-
16 standings provided under subparagraph (B), or
17 should seek to gain Australia Group acquies-
18 cence or approval for an interpretation that var-
19 ious provisions of the Convention require it to
20 remove chemical-weapons related export con-
21 trols against any State Party to the Conven-
22 tion, the President shall block any effort by
23 that Australia Group member to secure Aus-
24 tralia Group approval of such a position or in-
25 terpretation.

1 (E) DEFINITIONS.—In this paragraph:

2 (i) AUSTRALIA GROUP.—The term
3 “Australia Group” means the informal
4 forum of states, chaired by Australia,
5 whose goal is to discourage and impede
6 chemical and biological weapons prolifera-
7 tion by harmonizing national export con-
8 trols chemical weapons precursor chemi-
9 cals, biological weapons pathogens, and
10 dual-use production equipment, and
11 through other measures.

12 (ii) HIGHEST DIPLOMATIC LEVELS.—
13 The term “highest diplomatic levels”
14 means at the levels of senior officials with
15 the power to authoritatively represent their
16 governments, and does not include diplo-
17 matic representatives of those governments
18 to the United States.

19 (8) NEGATIVE SECURITY ASSURANCES.—

20 (A) REEVALUATION.—In forswearing
21 under the Convention the possession of a chemi-
22 cal weapons retaliatory capability, the Senate
23 understands that deterrence of attack by chemi-
24 cal weapons requires a reevaluation of the nega-

1 tive security assurances extended to non-nu-
2 clear-weapon states.

3 (B) CLASSIFIED REPORT.—Accordingly,
4 180 days after the deposit of the United States
5 instrument of ratification, the President shall
6 submit to the Congress a classified report set-
7 ting forth the findings of a detailed review of
8 United States policy on negative security assur-
9 ances, including a determination of the appro-
10 priate responses to the use of chemical or bio-
11 logical weapons against the Armed Forces of
12 the United States, United States citizens, allies,
13 and third parties.

14 (9) PROTECTION OF ADVANCED BIO-
15 TECHNOLOGY.—Prior to the deposit of the United
16 States instrument of ratification, and on January 1
17 of every year thereafter, the President shall certify
18 to the Committee on Foreign Relations and the
19 Speaker of the House of Representatives that the le-
20 gitimate commercial activities and interests of chem-
21 ical, biotechnology, and pharmaceutical firms in the
22 United States are not being significantly harmed by
23 the limitations of the Convention on access to, and
24 production of, those chemicals and toxins listed in
25 Schedule 1 of the Annex on Chemicals.

1 (10) MONITORING AND VERIFICATION OF COM-
2 PLIANCE.—

3 (A) DECLARATION.—The Senate declares
4 that—

5 (i) the Convention is in the interests
6 of the United States only if all State Par-
7 ties are in strict compliance with the terms
8 of the Convention as submitted to the Sen-
9 ate for its advice and consent to ratifica-
10 tion, such compliance being measured by
11 performance and not by efforts, intentions,
12 or commitments to comply; and

13 (ii) the Senate expects all State Par-
14 ties to be in strict compliance with their
15 obligations under the terms of the Conven-
16 tion, as submitted to the Senate for its ad-
17 vice and consent to ratification;

18 (B) BRIEFINGS ON COMPLIANCE.—Given
19 its concern about the intelligence community's
20 low level of confidence in its ability to monitor
21 compliance with the Convention, the Senate ex-
22 pects the executive branch of the Government
23 to offer regular briefings, not less than four
24 times a year, to the Committee on Foreign Re-
25 lations of the Senate and the Committee on

1 International Relations of the House of Rep-
2 resentatives on compliance issues related to the
3 Convention. Such briefings shall include a de-
4 scription of all United States efforts in bilateral
5 and multilateral diplomatic channels and fo-
6 rums to resolve compliance issues and shall in-
7 clude a complete description of—

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

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

14 (iii) any determination by the Presi-
15 dent that a State Party is in noncompli-
16 ance with or is otherwise acting in a man-
17 ner inconsistent with the object or purpose
18 of the Convention, within 30 days of such
19 a determination.

20 (C) ANNUAL REPORTS ON COMPLIANCE.—

21 The President shall submit on January 1 of
22 each year to the Committee on Foreign Rela-
23 tions of the Senate and the Committee on
24 International Relations of the House of Rep-

1 representatives a full and complete classified and
2 unclassified report setting forth—

3 (i) a certification of those countries
4 included in the Intelligence Community's
5 Monitoring Strategy, as set forth by the
6 Director of Central Intelligence's Arms
7 Control Staff and the National Intelligence
8 Council (or any successor document setting
9 forth intelligence priorities in the field of
10 the proliferation of weapons of mass de-
11 struction) that are determined to be in
12 compliance with the Convention, on a
13 country-by-country basis;

14 (ii) for those countries not certified
15 pursuant to clause (i), an identification
16 and assessment of all compliance issues
17 arising with regard to the adherence of the
18 country to its obligation under the Conven-
19 tion;

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

23 (I) to initiate challenge inspec-
24 tions of the noncompliant party with
25 the objective of demonstrating to the

1 international community the act of
2 noncompliance;

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

5 (III) to seek on an urgent basis
6 a meeting at the highest diplomatic
7 level with the noncompliant party with
8 the objective of bringing the non-
9 compliant party into compliance;

10 (iv) a determination of the military
11 significance and broader security risks
12 arising from any compliance issue identi-
13 fied pursuant to clause (ii); and

14 (v) a detailed assessment of the re-
15 sponses of the noncompliant party in ques-
16 tion to action undertaken by the United
17 States described in clause (iii).

18 (D) COUNTRIES PREVIOUSLY INCLUDED IN
19 COMPLIANCE REPORTS.—For any country that
20 was previously included in a report submitted
21 under subparagraph (C), but which subse-
22 quently is not included in the Intelligence Com-
23 munity's Monitoring Strategy (or successor doc-
24 ument), such country shall continue to be in-
25 cluded in the report submitted under subpara-

1 graph (C) unless the country has been certified
2 under subparagraph (C)(i) for each of the pre-
3 vious two years.

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

11 (F) ANNUAL REPORTS ON INTEL-
12 LIGENCE.—On January 1, 1998, and annually
13 thereafter, the Director of Central Intelligence
14 shall submit to the Committees on Foreign Re-
15 lations, Armed Services, and the Select Com-
16 mittee on Intelligence of the Senate and to the
17 Committees on International Relations, Na-
18 tional Security, and Permanent Select Commit-
19 tee of the House of Representatives, a full and
20 complete classified and unclassified report re-
21 garding—

22 (i) the status of chemical weapons de-
23 velopment, production, stockpiling, and
24 use, within the meanings of those terms

1 under the Convention, on a country-by-
2 country basis;

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

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

18 (iv) the monitoring responsibilities,
19 practices, and strategies of the intelligence
20 community (as defined in section 3(4) of
21 the National Security Act of 1947) and a
22 determination of the level of confidence of
23 the intelligence community with respect to
24 each specific monitoring task undertaken,
25 including an assessment by the intelligence

1 community of the national aggregate data
2 provided by State Parties to the Organiza-
3 tion, on a country-by-country basis;

4 (v) an identification of how United
5 States national intelligence means, includ-
6 ing national technical means and human
7 intelligence, is being marshaled together
8 with the Convention's verification provi-
9 sions to monitor compliance with the Con-
10 vention; and

11 (vi) the identification of chemical
12 weapons development, production, stock-
13 piling, or use, within the meanings of those
14 terms under the Convention, by sub-
15 national groups, including terrorist and
16 paramilitary organizations.

17 (G) REPORTS ON RESOURCES FOR MON-
18 ITORING.—Each report required under subpara-
19 graph (F) shall include a full and complete clas-
20 sified annex submitted solely to the Select Com-
21 mittee on Intelligence of the Senate and to the
22 Permanent Select Committee of the House of
23 Representatives regarding—

24 (i) a detailed and specific identifica-
25 tion of all United States resources devoted

1 to monitoring the Convention, including in-
2 formation on all expenditures associated
3 with the monitoring of the Convention; and

4 (ii) an identification of the priorities
5 of the executive branch of Government for
6 the development of new resources relating
7 to detection and monitoring capabilities
8 with respect to chemical and biological
9 weapons, including a description of the
10 steps being taken and resources being de-
11 voted to strengthening United States mon-
12 itoring capabilities.

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

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

17 (i) chemical and biological threats to
18 deployed United States Armed Forces will
19 continue to grow in regions of concern
20 around the world, and pose serious threats
21 to United States power projection and for-
22 ward deployment strategies;

23 (ii) chemical weapons or biological
24 weapons use is a potential element of fu-
25 ture conflicts in regions of concern;

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

5 (iv) the United States Armed Forces
6 are inadequately equipped, organized,
7 trained and exercised for chemical and bio-
8 logical defense against current and ex-
9 pected threats, and that too much reliance
10 is placed on non-active duty forces, which
11 receive less training and less modern
12 equipment, for critical chemical and bio-
13 logical defense capabilities;

14 (v) the lack of readiness stems from a
15 de-emphasis of chemical and biological de-
16 fenses within the executive branch of Gov-
17 ernment and the United States Armed
18 Forces;

19 (vi) the armed forces of key regional
20 allies and likely coalition partners, as well
21 as civilians necessary to support United
22 States military operations, are inad-
23 equately prepared and equipped to carry
24 out essential missions in chemically and
25 biologically contaminated environments;

1 (vii) congressional direction contained
2 in the Defense Against Weapons of Mass
3 Destruction Act of 1996 (title XIV of Pub-
4 lic Law 104–201) should lead to enhanced
5 domestic preparedness to protect against
6 chemical and biological weapons threats;
7 and

8 (viii) the United States Armed Forces
9 should place increased emphasis on poten-
10 tial threats to forces deployed abroad and,
11 in particular, make countering chemical
12 and biological weapons use an organizing
13 principle for United States defense strat-
14 egy and development of force structure,
15 doctrine, planning, training, and exercising
16 policies of the United States Armed
17 Forces.

18 (B) ACTIONS TO STRENGTHEN DEFENSE
19 CAPABILITIES.—The Secretary of Defense shall
20 take those actions necessary to ensure that the
21 United States Armed Forces are capable of car-
22 rying out required military missions in United
23 States regional contingency plans, despite the
24 threat or use of chemical or biological weapons.
25 In particular, the Secretary of Defense shall en-

1 sure that the United States Armed Forces are
2 effectively equipped, organized, trained, and ex-
3 ercised (including at the large unit and theater
4 level) to conduct operations in a chemically or
5 biologically contaminated environment that are
6 critical to the success of the United States mili-
7 tary plans in regional conflicts, including—

8 (i) deployment, logistics, and rein-
9 forcement operations at key ports and air-
10 fields;

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

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

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

17 (i) IN GENERAL.—The Secretaries of
18 Defense and State shall, as a priority mat-
19 ter, initiate discussions with key regional
20 allies and likely regional coalition partners,
21 including those countries where the United
22 States currently deploys forces, where
23 United States forces would likely operate
24 during regional conflicts, or which would
25 provide civilians necessary to support Unit-

1 ed States military operations, to determine
2 what steps are necessary to ensure that al-
3 lied and coalition forces and other critical
4 civilians are adequately equipped and pre-
5 pared to operate in chemically and bio-
6 logically contaminated environments.

7 (ii) REPORTING REQUIREMENT.—Not
8 later than one year after deposit of the
9 United States instrument of ratification,
10 the Secretaries of Defense and State shall
11 submit a report to the Committees on For-
12 eign Relations and Armed Services of the
13 Senate and to the Speaker of the House
14 on the result of these discussions, plans for
15 future discussions, measures agreed to im-
16 prove the preparedness of foreign forces
17 and civilians, and proposals for increased
18 military assistance, including through the
19 Foreign Military Sales, Foreign Military
20 Financing, and the International Military
21 Education and Training programs pursu-
22 ant to the Foreign Assistance Act of 1961.

23 (D) UNITED STATES ARMY CHEMICAL
24 SCHOOL.—The Secretary of Defense shall take
25 those actions necessary to ensure that the Unit-

1 ed States Army Chemical School remains under
2 the oversight of a general officer of the United
3 States Army.

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

8 (i) in the transfer, consolidation, and
9 reorganization of the United States Army
10 Chemical School, the Army should not dis-
11 rupt or diminish the training and readiness
12 of the United States Armed Forces to fight
13 in a chemical-biological warfare environ-
14 ment;

15 (ii) the Army should continue to oper-
16 ate the Chemical Defense Training Facility
17 at Fort McClellan until such time as the
18 replacement training facility at Fort Leon-
19 ard Wood is functional.

20 (F) ANNUAL REPORTS ON CHEMICAL AND
21 BIOLOGICAL WEAPONS DEFENSE ACTIVITIES.—
22 On January 1, 1998, and annually thereafter,
23 the President shall submit a report to the Com-
24 mittees on Foreign Relations, Appropriations,
25 and Armed Services of the Senate and the

1 Committee on International Relations, National
2 Security, and Appropriations of the House of
3 Representatives, and Speaker of the House on
4 previous, current, and planned chemical and bi-
5 ological weapons defense activities. The report
6 shall contain for the previous fiscal year and for
7 the next three fiscal years—

8 (i) proposed solutions to each of the
9 deficiencies in chemical and biological war-
10 fare defenses identified in the March 1996
11 report of the General Accounting Office
12 entitled “Chemical and Biological Defense:
13 Emphasis Remains Insufficient to Resolve
14 Continuing Problems”, and steps being
15 taken pursuant to subparagraph (B) to en-
16 sure that the United States Armed Forces
17 are capable of conducting required military
18 operations to ensure the success of United
19 States regional contingency plans despite
20 the threat or use of chemical or biological
21 weapons;

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

1 (iii) a detailed summary of all budget
2 activities associated with the research, de-
3 velopment, testing, and evaluation of chem-
4 ical and biological defense programs;

5 (iv) a detailed summary of expendi-
6 tures on research, development, testing,
7 and evaluation, and procurement of chemi-
8 cal and biological defenses by fiscal years
9 defense programs, department, and agency;

10 (v) a detailed assessment of current
11 and projected vaccine production capabili-
12 ties and vaccine stocks, including progress
13 in researching and developing a multi-
14 valent vaccine;

15 (vi) a detailed assessment of proce-
16 dures and capabilities necessary to protect
17 and decontaminate infrastructure to rein-
18 force United States power-projection
19 forces, including progress in developing a
20 nonaqueous chemical decontamination ca-
21 pability;

22 (vii) a description of progress made in
23 procuring light-weight personal protective
24 gear and steps being taken to ensure that
25 programmed procurement quantities are

1 sufficient to replace expiring battle-dress
2 overgarments and chemical protective over-
3 garments to maintain required wartime in-
4 ventory levels;

5 (viii) a description of progress made
6 in developing long-range standoff detection
7 and identification capabilities and other
8 battlefield surveillance capabilities for bio-
9 logical and chemical weapons, including
10 progress on developing a multi-chemical
11 agent detector, unmanned aerial vehicles,
12 and unmanned ground sensors;

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

22 (x) an assessment of—

23 (I) the training and readiness of
24 the United States Armed Forces to

1 operate in a chemically or biologically
2 contaminated environment; and

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

7 (xi) a description of progress made in
8 incorporating chemical and biological con-
9 siderations into service and joint exercises
10 as well as simulations, models, and war
11 games and the conclusions drawn from
12 these efforts about the United States capa-
13 bility to carry out required missions, in-
14 cluding missions with coalition partners, in
15 military contingencies;

16 (xii) a description of progress made in
17 developing and implementing service and
18 joint doctrine for combat and non-combat
19 operations involving adversaries armed
20 with chemical or biological weapons, in-
21 cluding efforts to update the range of serv-
22 ice and joint doctrine to better address the
23 wide range of military activities, including
24 deployment, reinforcement, and logistics
25 operations in support of combat oper-

1 ations, and for the conduct of such oper-
2 ations in concert with coalition forces; and
3 (xiii) a description of progress made
4 in resolving issues relating to the protec-
5 tion of United States population centers
6 from chemical and biological attack, in-
7 cluding plans for inoculation of popu-
8 lations, consequence management, and a
9 description of progress made in developing
10 and deploying effective cruise missile de-
11 fenses and a national ballistic missile de-
12 fense.

13 (12) PRIMACY OF THE UNITED STATES CON-
14 STITUTION.—Nothing in the Convention requires or
15 authorizes legislation, or other action, by the United
16 States prohibited by the Constitution of the United
17 States, as interpreted by the United States.

18 (13) NONCOMPLIANCE.—

19 (A) IN GENERAL.—If the President deter-
20 mines that persuasive information exists that a
21 State Party to the Convention is maintaining a
22 chemical weapons production or production mo-
23 bilization capability, is developing new chemical
24 agents, or is in violation of the Convention in
25 any other manner so as to threaten the national

1 security interests of the United States, then the
2 President shall—

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

6 (ii) seek on an urgent basis a chal-
7 lenge inspection of the facilities of the rel-
8 evant party in accordance with the provi-
9 sions of the Convention with the objective
10 of demonstrating to the international com-
11 munity the act of noncompliance;

12 (iii) seek, or encourage, on an urgent
13 basis a meeting at the highest diplomatic
14 level with the relevant party with the objec-
15 tive of bringing the noncompliant party
16 into compliance;

17 (iv) implement prohibitions and sanc-
18 tions against the relevant party as required
19 by law;

20 (v) if noncompliance has been deter-
21 mined, seek on an urgent basis within the
22 Security Council of the United Nations a
23 multilateral imposition of sanctions against
24 the noncompliant party for the purposes of

1 bringing the noncompliant party into com-
2 pliance; and

3 (vi) in the event that the noncompli-
4 ance continues for a period of longer than
5 one year after the date of the determina-
6 tion made pursuant to subparagraph (A),
7 promptly consult with the Senate for the
8 purposes of obtaining a resolution of sup-
9 port of continued adherence to the Conven-
10 tion, notwithstanding the changed cir-
11 cumstances affecting the object and pur-
12 pose of the Convention.

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

20 (C) PRESIDENTIAL DETERMINATIONS.—If
21 the President determines that an action other-
22 wise required under subparagraph (A) would
23 impair or otherwise affect the authority of the
24 Director of Central Intelligence to protect intel-
25 ligence sources and methods from unauthorized

1 disclosure, the President shall report that deter-
2 mination, together with a detailed written ex-
3 planation of the basis for that determination, to
4 the chairmen of the Senate Select Committee
5 on Intelligence and the House Permanent Se-
6 lect Committee on Intelligence not later than 15
7 days after making such determination.

8 (14) FINANCING RUSSIAN IMPLEMENTATION.—

9 The United States understands that, in order to be
10 assured of the Russian commitment to a reduction
11 in chemical weapons stockpiles, Russia must main-
12 tain a substantial stake in financing the implementa-
13 tion of both the 1990 Bilateral Destruction Agree-
14 ment and the Convention. The United States shall
15 not accept any effort by Russia to make deposit of
16 Russia's instrument of ratification contingent upon
17 the United States providing financial guarantees to
18 pay for implementation of commitments by Russia
19 under the 1990 Bilateral Destruction Agreement or
20 the Convention.

21 (15) ASSISTANCE UNDER ARTICLE X.—

22 (A) IN GENERAL.—Prior to the deposit of
23 the United States instrument of ratification, the
24 President shall certify to the Congress that the

1 United States shall not provide assistance
2 under paragraph 7(a) of Article X.

3 (B) COUNTRIES INELIGIBLE FOR CERTAIN
4 ASSISTANCE UNDER THE FOREIGN ASSISTANCE
5 ACT.—Prior to the deposit of the United States
6 instrument of ratification, the President shall
7 certify to the Congress that for any State Party
8 the government of which is not eligible for as-
9 sistance under chapter 2 of part II (relating to
10 military assistance) or chapter 4 of part II (re-
11 lating to economic support assistance) of the
12 Foreign Assistance Act of 1961—

13 (i) no assistance under paragraph
14 7(b) of Article X will be provided to the
15 State Party; and

16 (ii) no assistance under paragraph
17 7(c) of Article X other than medical anti-
18 dotes and treatment will be provided to the
19 State Party.

20 (16) PROTECTION OF CONFIDENTIAL INFORMA-
21 TION.—

22 (A) UNAUTHORIZED DISCLOSURE OF UNIT-
23 ED STATES BUSINESS INFORMATION.—When-
24 ever the President determines that persuasive
25 information is available indicating that—

1 (i) an officer or employee of the Orga-
2 nization has willfully published, divulged,
3 disclosed, or made known in any manner
4 or to any extent not authorized by the
5 Convention any United States confidential
6 business information coming to him in the
7 course of his employment or official duties
8 or by reason of any examination or inves-
9 tigation of any return, report, or record
10 made to or filed with the Organization, or
11 any officer or employee thereof, and

12 (ii) such practice or disclosure has re-
13 sulted in financial losses or damages to a
14 United States person,

15 the President shall, within 30 days after the re-
16 ceipt of such information by the executive
17 branch of Government, notify the Congress in
18 writing of such determination.

19 (B) WAIVER OF IMMUNITY FROM JURIS-
20 DICTION.—

21 (i) CERTIFICATION.—Not later than
22 270 days after notification of Congress
23 under subparagraph (A), the President
24 shall certify to Congress that the immunity
25 from jurisdiction of such foreign person

1 has been waived by the Director-General of
2 the Technical Secretariat.

3 (ii) WITHHOLDING OF PORTION OF
4 CONTRIBUTIONS.—If the President is un-
5 able to make the certification described
6 under clause (i), then 50 percent of the
7 amount of each annual United States con-
8 tribution to the regular budget of the Or-
9 ganization that is assessed pursuant to
10 paragraph 7 of Article VIII shall be with-
11 held from disbursement, in addition to any
12 other amounts required to be withheld
13 from disbursement by any other provision
14 of law, until—

15 (I) the President makes such cer-
16 tification, or

17 (II) the President certifies to
18 Congress that the situation has been
19 resolved in a manner satisfactory to
20 the United States person who has suf-
21 fered the damages due to the disclo-
22 sure of United States confidential
23 business information.

24 (C) BREACHES OF CONFIDENTIALITY.—

1 (i) CERTIFICATION.—In the case of
2 any breach of confidentiality involving both
3 a State Party and the Organization, in-
4 cluding any officer or employee thereof, the
5 President shall, within 270 days after pro-
6 viding written notification to Congress pur-
7 suant to subparagraph (A), certify to Con-
8 gress that the Commission described under
9 paragraph 23 of the Confidentiality Annex
10 has been established to consider the
11 breach.

12 (ii) WITHHOLDING OF PORTION OF
13 CONTRIBUTIONS.—If the President is un-
14 able to make the certification described
15 under clause (i), then 50 percent of the
16 amount of each annual United States con-
17 tribution to the regular budget of the Or-
18 ganization that is assessed pursuant to
19 paragraph 7 of Article VIII shall be with-
20 held from disbursement, in addition to any
21 other amounts required to be withheld
22 from disbursement by any other provision
23 of law, until—

24 (I) the President makes such cer-
25 tification, or

1 (II) the President certifies to
2 Congress that the situation has been
3 resolved in a manner satisfactory to
4 the United States person who has suf-
5 fered the damages due to the disclo-
6 sure of United States confidential
7 business information.

8 (D) DEFINITIONS.—In this paragraph:

9 (i) UNITED STATES CONFIDENTIAL
10 BUSINESS INFORMATION.—The term
11 “United States confidential business infor-
12 mation” means any trade secrets or com-
13 mercial or financial information that is
14 privileged and confidential, as described in
15 section 552(b)(4) of title 5, United States
16 Code, and that is obtained—

17 (I) from a United States person;
18 and

19 (II) through the United States
20 National Authority or the conduct of
21 an inspection on United States terri-
22 tory under the Convention.

23 (ii) UNITED STATES PERSON.—The
24 term “United States person” means any
25 natural person or any corporation, partner-

1 ship, or other juridical entity organized
2 under the laws of the United States.

3 (iii) UNITED STATES.—The term
4 “United States” means the several States,
5 the District of Columbia, and the common-
6 wealths, territories, and possessions of the
7 United States.

8 (17) CONSTITUTIONAL PREROGATIVES.—

9 (A) FINDINGS.—The Senate makes the fol-
10 lowing findings:

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

17 (ii) At the turn of the century, Sen-
18 ator Henry Cabot Lodge took the position
19 that the giving of advice and consent to
20 treaties constitutes a stage in negotiation
21 on the treaties and that Senate amend-
22 ments or reservations to a treaty are propo-
23 sitions “offered at a later stage of the ne-
24 gotiation by the other part of the American

1 treaty making power in the only manner in
2 which they could then be offered”.

3 (iii) The executive branch of Govern-
4 ment has begun a practice of negotiating
5 and submitting to the Senate treaties
6 which include provisions that have the pur-
7 ported effect of—

8 (I) inhibiting the Senate from at-
9 taching reservations that the Senate
10 considers necessary in the national in-
11 terest; or

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

17 (iv) During the 85th Congress, and
18 again during the 102d Congress, the Com-
19 mittee on Foreign Relations of the Senate
20 made its position on this issue clear when
21 stating that “the President’s agreement to
22 such a prohibition cannot constrain the
23 Senate’s constitutional right and obligation
24 to give its advice and consent to a treaty

1 subject to any reservation it might deter-
2 mine is required by the national interest”.

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

5 (i) the advice and consent given by the
6 Senate in the past to ratification of treaties
7 containing provisions which prohibit amend-
8 ments or reservations should not be construed
9 as a precedent for such provisions in future
10 treaties;

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

16 (iii) the Senate should not consent in the
17 future to any article or other provision of any
18 treaty that would prohibit the Senate from giv-
19 ing its advice and consent to ratification of the
20 treaty subject to amendment or reservation.

21 (18) LABORATORY SAMPLE ANALYSIS.—Prior to
22 the deposit of the United States instrument of ratifi-
23 cation, the President shall certify to the Senate that
24 no sample collected in the United States pursuant to
25 the Convention will be transferred for analysis to

1 any laboratory outside the territory of the United
2 States.

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

5 (A) without regard to whether the Conven-
6 tion enters into force, terrorists will likely view
7 chemical weapons as a means to gain greater
8 publicity and instill widespread fear; and

9 (B) the March 1995 Tokyo subway attack
10 by the Aum Shinrikyo would not have been pre-
11 vented by the Convention.

12 (20) CONSTITUTIONAL SEPARATION OF POW-
13 ERS.—

14 (A) FINDINGS.—The Senate makes the fol-
15 lowing findings:

16 (i) Article VIII(8) of the Convention
17 allows a State Party to vote in the Organi-
18 zation if the State Party is in arrears in
19 the payment of financial contributions and
20 the Organization is satisfied that such non-
21 payment is due to conditions beyond the
22 control of the State Party.

23 (ii) Article I, Section 8 of the United
24 States Constitution vests in Congress the

1 exclusive authority to “pay the Debts” of
2 the United States.

3 (iii) Financial contributions to the Or-
4 ganization may be appropriated only by
5 Congress.

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

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

13 (ii) the United States vote in the Or-
14 ganization should not be denied in the
15 event that Congress does not appropriate
16 the full amount of funds assessed for the
17 United States financial contribution to the
18 Organization.

19 (21) ON-SITE INSPECTION AGENCY.—It is the
20 sense of the Senate that the On-Site Inspection
21 Agency of the Department of Defense should have
22 the authority to provide assistance in advance of any
23 inspection to any facility in the United States that
24 is subject to a routine inspection under the Conven-
25 tion, or to any facility in the United States that is

1 the object of a challenge inspection conducted pursu-
2 ant to Article IX, if the consent of the owner or op-
3 erator of the facility has first been obtained.

4 (22) LIMITATION ON THE SCALE OF ASSESS-
5 MENT.—

6 (A) LIMITATION ON ANNUAL ASSESS-
7 MENT.—Notwithstanding any provision of the
8 Convention, and subject to the requirements of
9 subparagraphs (B), (C), and (D) the United
10 States shall pay as a total annual assessment
11 of the costs of the Organization pursuant to
12 paragraph 7 of Article VIII not more than
13 \$25,000,000.

14 (B) RECALCULATION OF LIMITATION.—On
15 January 1, 2000, and at each 3-year interval
16 thereafter, the amount specified in subpara-
17 graph (A) is to be recalculated by the Adminis-
18 trator of General Services, in consultation with
19 the Secretary of State, to reflect changes in the
20 consumer price index for the immediately pre-
21 ceding 3-year period.

22 (C) ADDITIONAL CONTRIBUTIONS REQUIR-
23 ING CONGRESSIONAL APPROVAL.—

24 (i) AUTHORITY.—Notwithstanding
25 subparagraph (A), the President may fur-

1 nish additional contributions which would
2 otherwise be prohibited under subpara-
3 graph (A) if—

4 (I) the President determines and
5 certifies in writing to the Speaker of
6 the House of Representatives and the
7 Committee on Foreign Relations of
8 the Senate that the failure to provide
9 such contributions would result in the
10 inability of the Organization to con-
11 duct challenge inspections pursuant to
12 Article IX or would otherwise jeopard-
13 ize the national security interests of
14 the United States; and

15 (II) Congress enacts a joint reso-
16 lution approving the certification of
17 the President.

18 (ii) STATEMENT OF REASONS.—The
19 President shall transmit with such certifi-
20 cation a detailed statement setting forth
21 the specific reasons therefor, and the spe-
22 cific uses to which the additional contribu-
23 tions provided to the Organization would
24 be applied.

1 (D) ADDITIONAL CONTRIBUTIONS FOR
2 VERIFICATION.—Notwithstanding subparagraph
3 (A), for a period of not more than ten years,
4 the President may furnish additional contribu-
5 tions to the Organization for the purposes of
6 meeting the costs of verification under Articles
7 IV and V.

8 (23) ADDITIONS TO THE ANNEX ON CHEMI-
9 CALS.—

10 (A) PRESIDENTIAL NOTIFICATION.—Not
11 later than 10 days after the Director-General of
12 the Technical Secretariat communicates infor-
13 mation to all States Parties pursuant to Article
14 XV(5)(a) of a proposal for the addition of a
15 chemical or biological substance to a schedule of
16 the Annex on Chemicals, the President shall no-
17 tify the Committee on Foreign Relations of the
18 Senate of the proposed addition.

19 (B) PRESIDENTIAL REPORT.—Not later
20 than 60 days after the Director-General of the
21 Technical Secretariat communicates informa-
22 tion of such a proposal pursuant to Article
23 XV(5)(a) or not later than 30 days after a posi-
24 tive recommendation by the Executive Council
25 pursuant to Article XV(5)(c), whichever is

1 sooner, the President shall submit to the Com-
2 mittee on Foreign Relations of the Senate a re-
3 port, in classified and unclassified form, detail-
4 ing the likely impact of the proposed addition to
5 the Annex on Chemicals. Such report shall in-
6 clude—

7 (i) an assessment of the likely impact
8 on United States industry of the proposed
9 addition of the chemical or biological sub-
10 stance to a schedule of the Annex on
11 Chemicals;

12 (ii) a description of the likely costs
13 and benefits, if any, to United States na-
14 tional security of the proposed addition of
15 such chemical or biological substance to a
16 schedule of the Annex on Chemicals; and

17 (iii) a detailed assessment of the ef-
18 fect of the proposed addition on United
19 States obligations under the Verification
20 Annex.

21 (C) PRESIDENTIAL CONSULTATION.—The
22 President shall, after the submission of the no-
23 tification required under subparagraph (A) and
24 prior to any action on the proposal by the Exec-
25 utive Council under Article XV(5)(c), consult

1 promptly with the Senate as to whether the
2 United States should object to the proposed ad-
3 dition of a chemical or biological substance pur-
4 suant to Article XV(5)(c).

5 (24) TREATY INTERPRETATION.—The Senate
6 affirms the applicability to all treaties of the Con-
7 stitutionally based principles of treaty interpretation
8 set forth in Condition (1) of the resolution of ratifi-
9 cation with respect to the INF Treaty. For purposes
10 of this declaration, the term “INF Treaty” refers
11 to the Treaty Between the United States of America
12 and the Union of Soviet Socialist Republics on the
13 Elimination of Their Intermediate-Range and Short-
14 er Range Missiles, together with the related memo-
15 randum of understanding and protocols, approved by
16 the Senate on May 27, 1988.

17 (25) FURTHER ARMS REDUCTIONS OBLIGA-
18 TIONS.—The Senate declares its intention to con-
19 sider for approval international agreements that
20 would obligate the United States to reduce or limit
21 the Armed Forces or armaments of the United
22 States in a militarily significant manner only pursu-
23 ant to the treaty power as set forth in Article II,
24 section 2, clause 2 of the Constitution.

25 (26) RIOT CONTROL AGENTS.—

1 (A) PERMITTED USES.—Prior the the de-
2 posit of the United States instrument of ratifi-
3 cation, the President shall certify to Congress
4 that the United States is not restricted by the
5 Convention in its use of riot control agents, in-
6 cluding the use against combatants who are
7 parties to a conflict, in any of the following
8 cases:

9 (i) UNITED STATES NOT A PARTY.—

10 The conduct of peacetime military oper-
11 ations within an area of ongoing armed
12 conflict when the United States is not a
13 party to the conflict (such as recent use of
14 the United States Armed Forces in Soma-
15 lia, Bosnia, and Ruanda).

16 (ii) CONSENSUAL PEACEKEEPING.—

17 Consensual peacekeeping operations when
18 the use of force is authorized by the receiv-
19 ing state, including operations pursuant to
20 Chapter VI of the United Nations Charter.

21 (iii) CHAPTER VII PEACEKEEPING.—

22 Peacekeeping operations when force is au-
23 thorized by the Security Council under
24 Chapter VII of the United Nations Char-
25 ter.

1 (B) IMPLEMENTATION.—The President
2 shall take no measure, and prescribe no rule or
3 regulation, which would alter or eliminate Exec-
4 utive Order 11850 of April 8, 1975.

5 (C) DEFINITION.—In this paragraph, the
6 term “riot control agent” has the meaning
7 given the term in Article II(7) of the Conven-
8 tion.

9 (27) CHEMICAL WEAPONS DESTRUCTION.—
10 Prior to the deposit of the United States instrument
11 of ratification of the Convention, the President shall
12 certify to the Congress that all of the following con-
13 ditions are satisfied:

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

24 (B) CONVENTION EXTENDS DESTRUC-
25 TION DEADLINE.—The requirement in sec-

1 tion 1412 of Public Law 99–145 (50
2 U.S.C. 1521) for completion of the de-
3 struction of the United States stockpile of
4 chemical weapons by December 31, 2004,
5 will be superseded upon the date the Con-
6 vention enters into force with respect to
7 the United States by the deadline required
8 by the Convention of April 29, 2007.

9 (C) AUTHORITY TO EMPLOY A DIF-
10 FERENT DESTRUCTION TECHNOLOGY.—

11 The requirement in Article III(1)(a)(v) of
12 the Convention for a declaration by each
13 State Party not later than 30 days after
14 the date the Convention enters into force
15 with respect to that Party, on general
16 plans of the State Party for destruction of
17 its chemical weapons does not preclude in
18 any way the United States from deciding
19 in the future to employ a technology for
20 the destruction of chemical weapons dif-
21 ferent than that declared under that Arti-
22 cle.

23 (D) PROCEDURES FOR EXTENSION OF
24 DEADLINE.—The President will consult with
25 Congress on whether to submit a request to the

1 Executive Council of the Organization for an
2 extension of the deadline for the destruction of
3 chemical weapons under the Convention, as pro-
4 vided under part IV(A) of the Annex on Imple-
5 mentation and Verification to the Convention,
6 if, as a result of the program of alternative
7 technologies for the destruction of chemical mu-
8 nitions carried out under section 8065 of the
9 Department of Defense Appropriations Act,
10 1997 (as contained in Public Law 104–208),
11 the President determines that alternatives to
12 the incineration of chemical weapons are avail-
13 able that are safer and more environmentally
14 sound but whose use would preclude the United
15 States from meeting the deadlines of the Con-
16 vention.

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

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

24 (i) for any challenge inspection con-
25 ducted on the territory of the United

1 States pursuant to Article IX, where con-
2 sent has been withheld, the United States
3 National Authority will first obtain a
4 criminal search warrant based upon prob-
5 able cause, supported by oath or affirma-
6 tion, and describing with particularity the
7 place to be searched and the persons or
8 things to be seized; and

9 (ii) for any routine inspection of a de-
10 clared facility under the Convention that is
11 conducted on an involuntary basis on the
12 territory of the United States, the United
13 States National Authority first will obtain
14 an administrative search warrant from a
15 United States magistrate judge.

16 (B) DEFINITION.—For purposes of this
17 resolution, the term “National Authority”
18 means the agency or office of the United States
19 Government designated by the United States
20 pursuant to Article VII(4) of the Convention.

21 (29) RUSSIAN ELIMINATION OF CHEMICAL
22 WEAPONS.—Prior to the deposit of the United
23 States instrument of ratification, the President shall
24 certify to the Congress that—

1 (A) Russia is making reasonable progress
2 in the implementation of the Agreement be-
3 tween the United States of America and the
4 Union of Soviet Socialist Republics on Destruc-
5 tion and Nonproduction of Chemical Weapons
6 and on Measures to Facilitate the Multilateral
7 Convention on Banning Chemical Weapons,
8 signed on June 1, 1990 (in this resolution re-
9 ferred to as the “1990 Bilateral Destruction
10 Agreement”);

11 (B) the United States and Russia have re-
12 solved, to the satisfaction of the United States,
13 outstanding compliance issues under the Memo-
14 randum of Understanding Between the Govern-
15 ment of the United States of America and the
16 Union of Soviet Socialist Republics Regarding a
17 Bilateral Verification Experiment and Data Ex-
18 change Related to Prohibition on Chemical
19 Weapons, signed at Jackson Hole, Wyoming, on
20 September 23, 1989, also known as the “1989
21 Wyoming Memorandum of Understanding”,
22 and the 1990 Bilateral Destruction Agreement;

23 (C) Russia has deposited the Russian in-
24 strument of ratification for the Convention and

1 is in compliance with its obligations under the
2 Convention; and

3 (D) Russia is committed to forgoing any
4 chemical weapons capability, chemical weapons
5 modernization program, production mobilization
6 capability, or any other activity contrary to the
7 object and purpose of the Convention.

8 (30) CHEMICAL WEAPONS IN OTHER STATES.—

9 (A) CERTIFICATION REQUIREMENT.—Prior
10 to the deposit of the United States instrument
11 of ratification the President, in consultation
12 with the Director of Central Intelligence, shall
13 certify to the Congress that countries which
14 have been determined to have offensive chemical
15 weapons programs, including Iran, Iraq, Syria,
16 Libya, the Democratic People's Republic of
17 Korea, China, and all other countries deter-
18 mined to be state sponsors of international ter-
19 rorism, have ratified or otherwise acceded to
20 the Convention.

21 (31) EXERCISE OF RIGHT TO BAR CERTAIN IN-
22 SPECTORS.—

23 (i) IN GENERAL.—The President shall
24 exercise United States rights under para-
25 graphs 2 and 4 of Part II of the Verifica-

1 tion Annex to indicate United States non-
2 acceptance of all inspectors and inspection
3 assistants who are nationals of countries
4 designated by the Secretary of State as
5 supporters of international terrorism under
6 section 40(d) of the Arms Export Control
7 Act, or nationals of countries that have
8 been determined by the President, in the
9 last five years, to have violated United
10 States nonproliferation law, including—

11 (I) chapters 7, 8, and 10 of the
12 Arms Export Control Act;

13 (II) sections 821 and 824 of the
14 Nuclear Proliferation Prevention Act
15 of 1994;

16 (III) sections 11b and 11c of the
17 Export Administration Act of 1979;

18 (IV) the Export-Import Bank Act
19 of 1945; and

20 (V) sections 1604 and 1605 of
21 the Iran-Iraq Nonproliferation Act of
22 1992.

23 (ii) OTHER GROUNDS OF EXCLU-
24 SION.—The President shall also bar such
25 nationals from entering United States ter-

1 rity for the purpose of conducting any
2 activity associated with the Convention,
3 notwithstanding paragraph 7 of Part II of
4 the Verification Annex.

5 (32) STEMMING THE PROLIFERATION OF CHEM-
6 ICAL WEAPONS.—Prior to the deposit of the United
7 States instrument of ratification, the President shall
8 certify to Congress that—

9 (A) the State Parties have concluded an
10 agreement amending the Convention—

11 (i) by striking Article X; and

12 (ii) by amending Article XI to strike
13 any provision that states or implies dis-
14 approval of trade restrictions in the field of
15 chemical activities, including paragraphs
16 2(b), 2(c), 2(d), and 2(e); and

17 (B) no provision has been added to the
18 Convention or to any of its annexes, and no
19 statement, written or oral, has been issued by
20 the Organization, stating or implying the right
21 or obligation of States Parties to share or facili-
22 tate the exchange among themselves of chemical
23 weapons defense technology, chemicals, equip-
24 ment, or scientific and technical information.

25 (33) EFFECTIVE VERIFICATION.—

1 (A) CERTIFICATION.—Prior to the deposit
2 of the United States instrument of ratification,
3 the President shall certify to Congress that
4 compliance with the Convention is effectively
5 verifiable.

6 (B) DEFINITIONS.—In this paragraph:

7 (i) EFFECTIVELY VERIFIABLE.—The
8 term “effectively verifiable” means that the
9 Director of Central Intelligence has cer-
10 tified to the President that the United
11 States intelligence community (as defined
12 in section 3(4) of the National Security
13 Act of 1947) has a high degree of con-
14 fidence in its ability to detect militarily sig-
15 nificant violations of the Convention, in-
16 cluding the production, possession, or stor-
17 age of militarily significant quantities of le-
18 thal chemicals, in a timely fashion, and to
19 detect patterns of marginal violation over
20 time.

21 (ii) MILITARILY SIGNIFICANT.—The
22 term “militarily significant” means one
23 metric ton or more of chemical weapons
24 agent.

1 (iii) **TIMELY FASHION.**—The term
2 “timely fashion” means detection within
3 one year of the violation having occurred.

4 **SEC. 3. DEFINITIONS.**

5 As used in this resolution:

6 (1) **CHEMICAL WEAPONS CONVENTION OR CON-**
7 **VENTION.**—The terms “Chemical Weapons Conven-

8 tion” and “Convention” mean the Convention on the
9 Prohibition of Development, Production, Stockpiling
10 and Use of Chemical Weapons and on Their De-

11 struction, Opened for Signature and Signed by the
12 United States at Paris on January 13, 1993, includ-

13 ing the following protocols and memorandum of un-

14 derstanding, all such documents being integral parts

15 of and collectively referred to as the “Chemical

16 Weapons Convention” or the “Convention” (con-

17 tained in Treaty Document 103–21):

18 (A) The Annex on Chemicals.

19 (B) The Annex on Implementation and
20 Verification.

21 (C) The Annex on the Protection of Con-
22 fidential Information.

23 (D) The Resolution Establishing the Pre-
24 paratory Commission for the Organization for
25 the Prohibition of Chemical Weapons.

1 (E) The Text on the Establishment of a
2 Preparatory Commission.

3 (2) ORGANIZATION.—The term “Organization”
4 means the Organization for the Prohibition of
5 Chemical Weapons established under the Conven-
6 tion.

7 (3) STATE PARTY.—The term “State Party”
8 means any nation that is a party to the Convention.

9 (4) UNITED STATES INSTRUMENT OF RATIFICA-
10 TION.—The term “United States instrument of rati-
11 fication” means the instrument of ratification of the
12 United States of the Convention.

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