

M S M a i l

DATE-TIME 17 April 97 15:16
FROM Blinken, Antony J.
CLASSIFICATION ***** CLASSIFICATION NOT FOUND *****
SUBJECT CWC Attachments
TO Bass, Peter E.
Cicio, Kristen K.
Hall, Wilma G.
Helweg, M. Diana
Kale, Dora A.
Kerrick, Donald L.
Millison, Cathy L.
Veit, Katherine M.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY
to previous e-mail.
[[TPS2.DOC : 3883 in TPS2.DOC]][[CWCTP1.DOC : 3884 in
CWCTP1.DOC]]
**ATTACHMENT
FILE DATE** 17 April 97 15:6
**ATTACHMENT
FILE NAME** TPS2.DOC

POINTS FOR PRINCIPALS ON CWC AGREED CONDITIONS

☐ I was calling to seek your support for the Chemical Weapons Convention, which Majority Leader Lott has scheduled for a vote next week.

Important Breakthrough on Conditions

☐ I wanted to bring to your attention that agreement was reached this week on over 20 conditions to be included in a Senate resolution of ratification on the Convention.

☐ We believe that these conditions, which address virtually every concern raised about the CWC, mark a significant achievement.

☐ The negotiations that led to this package began in January,

following an agreement between the President and the Majority Leader to establish a process to address concerns raised by some members of the Republican caucus.

☐ Over 60 hours of negotiations have taken place on various issues related to the CWC. The White House team, led by National Security Adviser Sandy Berger, and the Majority Leader and his nine member Task Force held over 30 hours of discussion. That was followed by 28 hours of discussion coordinated by Senate Foreign Relations Committee Chairman Jesse Helms and Ranking Minority Member Joe Biden.

☐ Among the 23, are conditions that will:

- * Require the Secretary of Defense to maintain robust chemical and biological defenses for US troops;
- * Ensure that instances of noncompliance will be subject to tough U.S. enforcement action;
- * Require the U.S., under Article X, to limit any chemical defense assistance to countries of concern, such as Cuba and Iran, to medical antidotes and treatment;
- * Obligate the President to obtain assurances from our Australia Group allies that Article XI is fully consistent with maintaining strict export controls on dangerous chemicals;
- * Ensure that nothing in the CWC requires any action by the U.S. prohibited by the Constitution.

☐ I would urge that you review this package, circulated by Senator Biden, carefully, as you consider the CWC.

☐ We are continuing to discuss additional important issues with Senator Lott, including search warrants and use of riot control agents in certain wartime situations. In areas where agreement cannot be reached, we have proposed conditions we believe address the underlying concerns.

Why We Must Ratify the CWC [If Needed]

☐ We already are getting rid of our chemical weapons. A law

passed by Congress in 1985 directed the destruction of the vast majority of our chemical weapons stockpile. The CWC will help ensure as many other nations as possible follow our lead.

☐ The U.S. led the fight to secure the CWC -- a treaty initiated by the Reagan Administration, completed and signed by the Bush Administration, submitted to the Senate by the Clinton Administration. Failure to ratify would be a terrible blow to our leadership, to our efforts to combat poison gas, and to our work to reduce the danger of weapons of mass destruction.

☐ Our troops will be safer as major countries around the world follow our lead and forego the possession of chemical weapons and formally expand controls over a broad range of chemicals and precursors used to make chemical weapons. That's why every Chairman of the Joint Chiefs of Staff for the past twenty years supports the treaty, as do the overwhelming majority of veterans groups across America.

☐ The treaty will make it harder and more costly for terrorists to acquire chemical weapons by eliminating stockpiles -- the largest potential source of theft or criminal diversion -- and restricting the flow of CW materials.

☐ The treaty will keep the pressure on rogue states through trade restrictions that will help deny them many of the dual-use chemicals that can be used to make chemical weapons.

☐ If we are not a party, our chemical companies will face these same trade restrictions, which could cost them hundreds of thousands of dollars a year in sales. That is why industry -- which helped write the rules of the treaty to make sure the burdens on business would be minimal and trade secrets protected -- strongly support the CWC.

April 29: A Real Deadline with Real Consequences [If Needed]

☐ If Congress fails to ratify before April 29, we will do damage to our national security and our economic security.

- ☐ We will be denied the CWC's tools against rogue states and terrorists who seek to acquire CW. And we will be denied the ability to require other states to do what we already are doing -- getting out of the chemical weapons business.
- ☐ We will be unable to enforce the rules of a treaty we took the lead in writing. The U.S. will lose its seat on the CWC governing board. Americans will be able to serve as inspectors and to hold other key posts such as head of security, administration and industry inspections.
- ☐ American chemical companies will also begin losing sales to overseas competitors as mandatory trade restrictions aimed at non-parties phase in. Industry estimates this could put at risk as much as \$600 million in sales and many jobs.

**ATTACHMENT
FILE DATE**

17 April 97 14:59

**ATTACHMENT
FILE NAME**

CWCTP1.DOC

CWC TALKING POINTS FOR BUSH, FORD

- ☐ Calling to congratulate you on scheduling a vote on the Chemical Weapons Convention
Recognize that your leadership has been instrumental in bringing us this far. Now, I want to urge your support for the treaty.
- ☐ The debate has been extensive and many concerns have been raised within the Republican caucus. But I understand that thanks to the negotiating effort you and President Clinton launched in January, there is agreement on 23 conditions for a resolution of ratification -- virtually all of the issues raised in the debate over the treaty. This result is very significant.
I hope you will capitalize on this success to support the treaty.

Why We Should Ratify the CWC

- ☐ I know that you will weigh heavily the broader implications for our national security and economic security if we fail to ratify.

□ After years of leading the fight to get this Convention negotiated and completed -- starting with the Reagan Administration, then the Bush Administration and now the Clinton Administration -- it would be a damaging blow to our leadership overall. More specifically, it will be a damaging blow to our efforts to deal with the two most serious national security challenges facing us--proliferation and terrorism.

□ We cannot combat these challenges to our security alone. Effective trade sanctions, effective early warning against terrorism, effective elimination of CW stockpiles, require the support of the international community. We must continue to lead efforts to rally broad international cooperation.

□ We are already getting rid of our chemical weapons. We made that decision in 1985 when Congress directed the destruction of the vast majority of our chemical weapons stockpile. The CWC will require that others do the same, under strict international supervision.

□ Our troops will be safer. The treaty will help stop the spread of these weapons by not only allowing for the maintenance and strengthening of export controls already in place, but also by formally expanding controls over a broad range of chemicals and precursors and causing many of the largest militaries around the world to forego chemical weapons in the future. That is why every Chairman of the Joints Chiefs of Staff for the past two decades supports the CWC

□ The treaty will also give us new tools to deal with the emerging threat of CW terrorism. By eliminating existing stockpiles and restricting the flow of chemicals that can be used to make chemical weapons, the CWC will make it harder and more costly for terrorists to acquire or use chemical weapons.

□ The treaty will help us -- not hurt us -- in our efforts to intensify pressure against rogue states. We will not only know more about what rogue states are doing, but it will make it harder and more costly for them to do it. Nations who refuse to

join will be subject to trade restrictions and unable to trade in many chemicals that can be used to make poison gas.

☐ If we are not a party, our chemical companies will face these same CWC-mandated trade restrictions meant for rogue states like Iraq and Libya, which could cost hundreds of millions of dollars a year in sales. That is why industry -- which helped write the rules of the treaty to make sure any burdens on business would be minimal and trade secrets protected -- strongly supports the CWC

☐ The CWC will not solve the chemical weapons problem. But it is a key element of an effective response to this growing security threat.

April 29: A Real Deadline with Real Consequences

☐ If Congress fails to ratify the CWC before then, Americans will be less secure. Will be denied access to CWC's tools against rogue states and terrorists who seek to acquire chemical weapons. Will also be denied the ability to require other states to do what we are already doing--getting out of the chemical weapons business.

☐ Without ratification, the credibility of American leadership across a full range of transnational issues will be undermined.

☐ The United States will also lose its seat on the governing body implementing the treaty. Americans will be ineligible to serve as inspectors. And Americans now serving in key posts, including as head of security, administration, and industry inspections, will be replaced by nationals from countries that have ratified.

☐ American chemical companies will also begin losing sales to overseas competitors, as mandatory trade sanctions against non-parties phase in. Industry estimates that this could put at risk as much as \$600 million in sales and many jobs.

M S M a i l

DATE-TIME 18 April 97 15:45
FROM Blinken, Antony J.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: principals poitns [UNCLASSIFIED]

TO Bendick, Gordon L.
Burrell, Christina L.
Danvers, William C.
Davis, William K.

CARBON_COPY NO CC's on THIS MESSAGE

TEXT_BODY

per phone con

From: Harris, Elisa D.
To: @PLANNING - Strat Plan & Comm
CC: /R, Record at A1; Bell, Robert G.; Murray, Lori E.;
@LEGISLAT-Legislative Affairs
Subject: principals poitns [UNCLASSIFIED]
Date: Thursday, April 17, 1997 01:16 PM

[[PRINCON.DOC : 3892 in PRINCON.DOC]]

tony: i got forgot to accept your blue lines, so my changes are indistinguishable from yours. key ones are in the why we need to ratify section -- i tried to get rid of some of the redundancy on trade restrictions in a couple of points.

**ATTACHMENT
FILE DATE** 17 April 97 14:3

**ATTACHMENT
FILE NAME** PRINCON.DOC

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- ☐ We believe that these conditions, which address virtually every concern raised about the CWC, mark a significant achievement.
- ☐ The negotiations that led to this package began in January, following an agreement between the President and the Majority Leader to establish a process to address concerns raised by some members of the Republican caucus.
- ☐ Over 60 hours of negotiations have taken place on various issues related to the CWC. The White House team, led by National Security Adviser Sandy Berger, and the Majority Leader and his nine member Task Force held over 30 hours of discussion. That was followed by 28 hours of discussion coordinated by Senate Foreign Relations Committee Chairman Jesse Helms and Ranking Minority Member Joe Biden.
- ☐ Among the 23, are conditions that will:
 - Require the Secretary of Defense to maintain robust chemical and biological defenses for US troops;
 - Ensure that instances of noncompliance will be subject to tough U.S. enforcement action;
 - Require the U.S., under Article X, to limit any chemical defense assistance to countries of concern, such as Cuba and Iran, to medical antidotes and treatment;
 - Obligate the President to obtain assurances from our Australia Group allies that Article XI is fully consistent with maintaining strict export controls on dangerous chemicals; and
 - Ensure that nothing in the CWC requires any action by the U.S. prohibited by the Constitution.
- ☐ I would urge that you review this package, circulated by Senator Biden, carefully, as you consider the CWC
- ☐ We are continuing to discuss additional important issues with Senator Lott including search warrants and use of riot control agents in certain wartime situations. In those areas where agreement cannot be reached, we have proposed conditions we believe address the underlying concerns.

Why We Must Ratify the CWC (If Needed)

- ☐ We already are getting rid of our chemical weapons. A law passed

by Congress in 1985 directed the destruction of the vast majority of our chemical weapons stockpile. This treaty will help ensure as many other nations as possible follow our lead.

□ We led the fight to secure this treaty: The Reagan Administration began the effort, Bush Administration completed negotiations and signed the treaty, Clinton Administration submitted to the Senate. Failure to ratify would be a terrible blow to our leadership overall, to our efforts to combat poison gas, and to our work to reduce the danger of weapons of mass destruction.

□ Our troops will be safer as major countries around the world follow our lead and forego the possession of chemical weapons and formally expand controls over a broad range of chemicals and precursors used to make CW. That's why every Chairman of the Joint Chiefs of Staff for the past twenty years supports the treaty, as do the overwhelming majority of veterans groups across America.

□ The treaty will make it harder and more costly for terrorists to acquire chemical weapons by eliminating stockpiles -- the largest potential source of theft or criminal diversion -- and restricting the flow of CW materials.

□ The treaty will help us keep the pressure on rogue states through trade restrictions that will help deny them many of the dual-use chemicals that can be used to make chemical weapons.

□ If we are not a party, our chemical companies will face these same trade restrictions aimed at rogue states -- which could cost them hundreds of thousands of dollars a year in sales. That is why industry -- which helped write the rules of the treaty to make sure the burdens on business would be minimal and trade secrets protected -- strongly support the CWC.

□ The CWC will not solve the CW problem -- but it is a key element of an effective response to a growing threat.

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getting out of the chemical weapons business.

☐ We will be unable to enforce the rules of a treaty we took the lead in writing. The U.S. will lose its seat on the governing board of the treaty. Americans will be ineligible to serve as inspectors and to hold other key posts such as head of security, administration and industry inspections.

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M S M a i l

DATE-TIME 18 April 97 15:54
FROM Danvers, William C.
CLASSIFICATION UNCLASSIFIED
SUBJECT CWC POTUS Package [UNCLASSIFIED]

TO Bendick, Gordon L.
Burrell, Christina L.
Danvers, William C.
Davis, William K.

CARBON_COPY NO CC's on THIS MESSAGE

TEXT_BODY

Chris--

Could you incorporate this into the POTUS package:

Also could you add the following names to the package for his calls: Dole, Stevens, McConnell, Gregg, Gorton, Thomas, Sessions, Coats, Enzi, Campbell.

[[CWCPRNCL.DOC : 3901 in CWCPRNCL.DOC]][[CWCPTCLS.DOC :
3902 in
CWCPTCLS.DOC]]

**ATTACHMENT
FILE DATE** 18 April 97 15:50

**ATTACHMENT
FILE NAME** CWCPRNCL.DOC

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□ Among the 28, are conditions that would:
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blow to our leadership overall, to our efforts to combat poison gas, and to our work to reduce the danger of weapons of mass destruction.

☐ Our troops will be safer as major countries around the world follow our lead and destroy their CW stockpiles and we formally expand controls over a broad range of chemicals and precursors. That's why every Chairman of the Joints Chiefs of Staff for the past twenty years supports the treaty, as do the overwhelming majority of veterans groups across America.

☐ The treaty will make it harder and more costly for terrorists to acquire chemical weapons by eliminating stockpiles -- the largest potential source of theft or criminal diversion -- and restricting the flow of chemicals used to make CW.

☐ The treaty will help us keep the pressure on rogue states by making it harder and more costly for them to acquire or make chemical weapons. Nations who refuse to join will be subject to trade restrictions and unable to trade in many chemicals that can be used to make chemical weapons.

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**ATTACHMENT
FILE DATE**

18 April 97 15:28

**ATTACHMENT
FILE NAME**

CWCPTCLS.DOC

BACKGROUND INFORMATION ON CWC CALLS

DOLE: In a meeting with Bill Richardson, Sen. Roberts said that Bob Dole supports the treaty. That is contrary to other information we have received on his position. As you know it was his letter last September that caused us to ask that the treaty be pulled from consideration. The concerns expressed by Sen. Dole where on universality, verifiability and constitutionality. While we may not have completely addressed all his concerns, we have made an effort with our conditions and in our negotiations with the Hill to respond to these issues.

Sen. Roberts said that former Sen. Dole was persuaded when he watched Bob Bell's briefing on the conditions on C-Span the other day. (Sen. Roberts asks that we not indicate to former Sen. Dole that we heard from him that he may be supportive of the treaty.)

A public expression of support from Sen. Dole would be helpful to our efforts. We suggest that you contact him to ask if he would be willing to make such a statement, and if would like a briefing from the Administration on where we are on the treaty.

Stevens: We have him down as a yes vote. We also need him to support our efforts to strike the conditions and to continue to

do
whatever he can to get his colleagues to support the treaty. You
may
also want to thank him for his efforts thus far.

McConnell: We have him down as leaning yes. He has the same
chemical
problem as Sen. Ford, which we have addressed.

Gregg: We have him as undecided. He is not much of an
internationalist, but an appeal to him on the grounds that this
protects our national interest, that the treaty is the product of
the
Bush and Reagan Administrations and that we have come more than
half
way to address the concerns of conservative members with the 28
agreed conditions might be helpful.

Gorton: We have him as leaning yes. He is the kind of Senator--
moderate, internationalist-- that we have to win if we are to get
to
67. We believe he is getting pressure from the right to vote no.

Emphasizing how far we have come with the 28 conditions. He has
particular concerns about verifiability and Articles X and XI.

Thomas: We have him down as undecided. We think he could be
moved
to yes. He has concerns about rogue states not adhering to the
CWC
and our loss of military deterrent. He has been swayed by
conservatives who are against the treaty.

Sessions: According to his staff, he is undecided. He feels
that
we sign on to too many treaties that have done nothing for our
national security. He will likely be a tough sell but may be
persuaded by the fact that there is strong support from the
military
on this.

Coats: He is undecided to leaning yes. He indicated in the past
that if the resolution of ratification addresses his concerns, he
could support the treaty. It might be useful to point out to him
the
28 conditions we have agreed on, stressing that if those in
disagreement remain part of the resolution of ratification, they
could
kill the treaty.

Enzi: He is a no. He believes it is not enforceable of verifiable and this will cause us to let down our chem defenses. Arguments on the 28 conditions could be helpful.

Campbell: He is undecided leaning toward no. He has chem demil concerns and fears it could hurt small businesses.

M S M a i l

DATE-TIME 18 April 97 16:51
FROM Danvers, William C.
CLASSIFICATION UNCLASSIFIED
SUBJECT [UNCLASSIFIED]
TO Bendick, Gordon L.
Burrell, Christina L.
Danvers, William C.
Davis, William K.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY [[CWCCOND.DOC : 4194 in CWCCOND.DOC]]
**ATTACHMENT
FILE DATE** 18 April 97 16:49
**ATTACHMENT
FILE NAME** CWCCOND.DOC

**SUMMARY OF AGREED CONDITIONS
ON THE CHEMICALS WEAPONS CONVENTION**

Agreement has been reached on 28 conditions, to be included in a Senate resolution of ratification on the Chemical Weapons Convention, which address virtually all of the concerns raised about the Convention. The negotiations that led to this package began in January, following an agreement between President Clinton and Senate Majority Leader Trent Lott. The White House team, led by National Security Adviser Sandy Berger, and the Majority Leader and his nine-member task force, held 30 hours of discussion. That was followed by 28 hours of discussion in meetings coordinated by Senate Foreign Relations Committee Chairman Jesse Helms and Ranking Minority Member Joe Biden.

**ENFORCING THE CWC: ENHANCING VERIFICATION, MONITORING,
AND
COMPLIANCE**

Concerns have been raised about U.S. monitoring resources,

verifiability and enforcement of compliance under the CWC.
Agreed
conditions which address these concerns include:

MONITORING AND VERIFICATION.-- Requires detailed annual country
by
country reports on chemical weapons activities, compliance
problems,
monitoring policy of the Intelligence Community, identification
of
chemical weapons activity by subnational groups; all resources
being
devoted to monitoring the Convention and an identification of
priorities of the Executive Branch for the development of new
resources relating to detection and monitoring capabilities.
Requires
at least quarterly briefings on U.S. actions to pursue CWC
compliance problems.

NONCOMPLIANCE.-- Requires the President to ensure that that
instances of noncompliance will be subject to tough U.S.
enforcement
action. Requires the President to take a series of actions
designed
to challenge and to redress noncompliance. These actions include
making effective Use of CWC provisions for challenge inspections,
high level diplomacy and UN sanctions. The President also impose
US
sanctions as required by law. If the noncompliance persists for
a
year, the President must consult with the Senate regarding
continued
adherence to the Convention.

CONSTITUTIONALITY

Concerns have been raised including the CWC's impact on Fourth
Amendment protections against unreasonable search and seizure and
Senate prerogatives regarding advice and consent. Agreed
conditions
which address these concerns include:

**CONSTITUTIONAL PROTECTIONS AGAINST UNREASONABLE
SEARCH AND
SEIZURE.--** Requires search warrants for all inspections under the
Convention where consent has been withheld. Specifically,
criminal
warrants are required for challenge inspections where consent has

been withheld, and administrative warrants are required for routine inspections where consent has been withheld.

PRIMACY OF THE UNITED STATES CONSTITUTION.-- Ensures that nothing in the Convention requires any action by the United States prohibited by the Convention.

EFFECT ON ARTICLE XX--Asserts the Senate's right under the Constitution to add reservations to the Convention.

AMENDMENTS TO THE CONVENTION.--Requires the United States to vote on all proposed amendments and requires the executive branch to submit all amendments to the Senate for its advice and consent.

CONSTITUTIONAL PREROGATIVES.-- Sense of the Senate that U.S. negotiators should not agree to treaties that bar reservations and the Senate should not consent to ratification of any such future treaties.

FURTHER ARMS REDUCTIONS OBLIGATIONS.-- Sets forth the Senate position that any international agreement that would obligate the United States to limit its forces in a militarily significant way will only be considered by the Senate pursuant to Article II, Section II, clause II of the Constitution.

TREATY INTERPRETATION.-- States the constitutionally based principle that the shared understanding that exists between the Executive branch and the Senate at the time the Senate gives its advice and consent to ratification can only be altered subject to the Senate's advice and consent to a subsequent treaty or protocol, or enactment of a statute.

ASSURING A STRONG DEFENSE POSTURE

Concerns have been raised that we will be lulled into a false sense of security under the CWC which will lead to our chemical defense capabilities eroding and a loss of vigilance in the fight against terrorism. Concerns have also been raised that U.S. security may be compromised without the ability to threaten to respond with chemical

weapons if chemical weapons are Used against the United States or allied forces. Agreed conditions which address these concerns include:

ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSE.--

Requires the Secretary of Defense to ensure that U.S. forces are capable of carrying out required military missions in U.S. regional contingency plans, despite the threat or use of chemical or biological weapons. Specifically, the Secretary of Defense shall ensure that U.S. Armed Forces are effectively equipped, organized, trained and exercised to conduct such operations. The Administration has also agreed to assure that the U.S. Army Chemical School remains under the supervision of an Army general.

RIOT CONTROL AGENTS.-- The President is required to take no measure that would alter or eliminate Executive Order 11850.

NEGATIVE SECURITY ASSURANCES.-- Requires a classified report regarding the impact of CWC on U.S. options for responding to chemical or biological attacks, and on the assurances we offer to other countries that forswear the use of nuclear weapons.

EFFECT ON TERRORISM.-- Senate finding that terrorists will likely look upon chemical weapons as a means to gain greater publicity and instill widespread fear and that the March Tokyo attack would not have been prevented by the CWC.

ASSURING SAFE, EFFECTIVE CHEMICAL WEAPONS DESTRUCTION

Concerns have been raised about U.S. chemical weapons destruction. Agreed conditions which address this concern include:

CHEMICAL WEAPONS DESTRUCTION.-- This condition requires the President to explore alternative technologies for the destruction of the U.S. chemical weapons stockpile.

PROTECTING U.S. INTELLIGENCE

Concerns have been raised regarding the compromising of U.S. intelligence information, sources and methods when it is shared with the CWC organization. Agreed conditions which address these concerns include:

INTELLIGENCE SHARING.--No U.S. intelligence can be shared with the CWC organization unless the President certifies that procedures have been established and implemented to ensure protection from unauthorized disclosure of U.S. intelligence sources and methods connected to such information.

U.S. AND MULTILATERAL EXPORT MAINTAINING AND STRENGTHENING CONTROLS. (Article XI)

Concern has been raised that Article XI, which provides for trade in chemicals for peaceful purposes, will weaken U.S. national export controls and multilateral export controls, such as those of the ad hoc Australia Group. Agreed conditions which address these concerns include:

CONTINUING VITALITY OF THE AUSTRALIA GROUP AND NATIONAL EXPORT CONTROLS.-- Requires the President to certify, prior to deposit, that nothing in the Convention obligates U.S. to accept any weakening of our export controls, that we maintain the right to impose export controls unilaterally or collectively on chemicals and chemical production technology, and that each member of the Australia Group agrees that its export controls are consistent with the CWC and is committed to maintain such controls in the future. Requires annual certification that Australia Group controls have not been weakened and remain effective or, if this cannot be certified, consultation

with the Senate on a resolution of continued adherence to the CWC.

Further requires the President to block any attempt with the Australia Group to change the Group's view of its obligations under the CWC.

CONTROLLING THE TRANSFERS OF CW DEFENSE EQUIPMENT AND TECHNOLOGY.

Concerns have been raised that under Article X the United States would be required to provide advance CW defense equipment to countries such as Cuba and Iran. Agreed conditions which address this concern include:

ASSISTANCE UNDER ARTICLE X.--Requires the United States to limit its assistance to countries of concern to medical antidotes and treatments. Requires the United States not to contribute to a voluntary fund for chemical weapons defense assistance.

U.S. ASSISTANCE TO RUSSIA

Concerns have been raised that Russia may not carry the lion's share of the financial burden for destroying its CW stockpile. Agreed conditions which address these concern include:

FINANCING RUSSIAN IMPLEMENTATION. -- Requires the United States to reject any effort by Russia to make Russia's CWC ratification contingent upon U.S. financial guarantees to cover Russian destruction costs.

FURTHER PROTECTIONS FOR INDUSTRY

Concerns have been raised that industry will be harmed by certain restrictions in the Convention. Agreed conditions which address these concerns include:

PROTECTION OF CONFIDENTIAL INFORMATION.-- If the President is unable to certify that immunity has been waived for any employee of the CWC Organization who willfully discloses U.S. confidential information and consequently, causes financial damage, than 50 percent

of the U.S. assessment shall be withheld.

PROTECTION OF ADVANCED BIOTECHNOLOGY. Requires the President to certify, prior to deposit, that the limitations on Schedule 1 chemicals and toxins are not adversely affecting the interests of U.S. chemical, biotechnology, and pharmaceutical firms.

ADDITIONS TO THE ANNEX ON CHEMICALS.-- Requires the President to notify and consult with Congress when a chemical is proposed for addition to the CWC Schedules in order to ensure that the United States thoroughly reviews whether such an addition would have a serious impact on industry and whether the United States should object to the proposed addition.

THE ON-SITE INSPECTIONS AGENCY.--Sense of the Senate that OSIER should be authorized to provide assistance to U.S. facilities subject to routine inspections under the CWC.

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CONSTITUTIONAL SEPARATION OF POWERS.--Senate declaration that the United States should not be denied its vote in the OPCW for failing to pay its full assessed financial contribution.

M S M a i l

DATE-TIME 21 April 97 15:50
FROM Murray, Lori E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Conditions summary [UNCLASSIFIED]
TO Bell, Robert G.
Bendick, Gordon L.
Benjamin, Daniel
Blinken, Antony J.
Burrell, Christina L.
Danvers, William C.
Davis, William K.
Gibney, James S.
Gray, Wendy
Harris, Elisa D.
LaFleur, Vinca A.
Naplan, Steven J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY [[BIDHEL.DOC : 3895 in BIDHEL.DOC]]
Final of concerns/conditions paper
**ATTACHMENT
FILE DATE** 21 April 97 15:48
**ATTACHMENT
FILE NAME** BIDHEL.DOC

**SUMMARY OF AGREED CONDITIONS
ON THE CHEMICALS WEAPONS CONVENTION**

Agreement has been reached on 28 conditions, to be included in a Senate resolution of ratification on the Chemical Weapons Convention, which address virtually all of the concerns raised about the Convention. The negotiations that led to this package began in January, following an agreement between President Clinton and Senate Majority Leader Trent Lott. The White House team, led by National Security Adviser Sandy Berger, and the Majority Leader and his nine-member task force, held 30 hours of discussion. That was followed by 28 hours of discussion in meetings coordinated by Senate

Foreign Relations Committee Chairman Jesse Helms and Ranking
Minority
Member Joe Biden.

ENFORCING THE CWC: ENHANCING VERIFICATION, MONITORING, AND COMPLIANCE

Concerns have been raised about U.S. monitoring resources,
verifiability and enforcement of compliance under the CWC.

Agreed

conditions which address these concerns include:

MONITORING AND VERIFICATION.-- Requires detailed annual country
by
country reports on chemical weapons activities, compliance
problems,
monitoring policy of the Intelligence Community, identification
of
chemical weapons activity by subnational groups; all resources
being
devoted to monitoring the Convention and an identification of
priorities of the Executive Branch for the development of new
resources relating to detection and monitoring capabilities.
Requires
at least quarterly briefings on U.S. actions to pursue CWC
compliance problems.

NONCOMPLIANCE.-- Requires the President to ensure that that
instances of noncompliance will be subject to tough U.S.
enforcement
action. Requires the President to take a series of actions
designed
to challenge and to redress noncompliance. These actions include
making effective Use of CWC provisions for challenge inspections,
high level diplomacy and UN sanctions. The President also impose
US
sanctions as required by law. If the noncompliance persists for
a
year, the President must consult with the Senate regarding
continued
adherence to the Convention.

CONSTITUTIONALITY

Concerns have been raised including the CWC's impact on Fourth
Amendment protections against unreasonable search and seizure and
Senate prerogatives regarding advice and consent. Agreed
conditions

which address these concerns include:

**CONSTITUTIONAL PROTECTIONS AGAINST UNREASONABLE
SEARCH AND**

SEIZURE.-- Requires search warrants for all inspections under the Convention where consent has been withheld. Specifically, criminal warrants are required for challenge inspections where consent has been withheld, and administrative warrants are required for routine inspections where consent has been withheld.

PRIMACY OF THE UNITED STATES CONSTITUTION.-- Ensures that nothing in the Convention requires any action by the United States prohibited by the Convention.

EFFECT ON ARTICLE XX-- Asserts the Senate's right under the Constitution to add reservations to the Convention.

AMENDMENTS TO THE CONVENTION.-- Requires the United States to vote on all proposed amendments and requires the executive branch to submit all amendments to the Senate for its advice and consent.

CONSTITUTIONAL PREROGATIVES.-- Sense of the Senate that U.S. negotiators should not agree to treaties that bar reservations and the Senate should not consent to ratification of any such future treaties.

FURTHER ARMS REDUCTIONS OBLIGATIONS.-- Sets forth the Senate position that any international agreement that would obligate the United States to limit its forces in a militarily significant way will only be considered by the Senate pursuant to Article II, Section II, clause II of the Constitution.

TREATY INTERPRETATION.-- States the constitutionally based principle that the shared understanding that exists between the Executive branch and the Senate at the time the Senate gives its advice and consent to ratification can only be altered subject to the Senate's advice and consent to a subsequent treaty or protocol, or enactment of a statute.

ASSURING A STRONG DEFENSE POSTURE

Concerns have been raised that we will be lulled into a false sense of security under the CWC which will lead to our chemical defense capabilities eroding and a loss of vigilance in the fight against terrorism. Concerns have also been raised that U.S. security may be compromised without the ability to threaten to respond with chemical weapons if chemical weapons are Used against the United States or allied forces. Agreed conditions which address these concerns include:

ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSE.--

Requires the Secretary of Defense to ensure that U.S. forces are capable of carrying out required military missions in U.S. regional contingency plans, despite the threat or use of chemical or biological weapons. Specifically, the Secretary of Defense shall ensure that U.S. Armed Forces are effectively equipped, organized, trained and exercised to conduct such operations. The Administration has also agreed to assure that the U.S. Army Chemical School remains under the supervision of an Army general.

RIOT CONTROL AGENTS.-- The President is required to take no measure that would alter or eliminate Executive Order 11850.

NEGATIVE SECURITY ASSURANCES.--Requires a classified report regarding the impact of CWC on U.S. options for responding to chemical or biological attacks, and on the assurances we offer to other countries that forswear the use of nuclear weapons.

EFFECT ON TERRORISM.--Senate finding that terrorists will likely look upon chemical weapons as a means to gain greater publicity and instill widespread fear and that the March Tokyo attack would not have been prevented by the CWC.

ASSURING SAFE, EFFECTIVE CHEMICAL WEAPONS DESTRUCTION

Concerns have been raised about U.S. chemical weapons

destruction.

Agreed conditions which address this concern include:

CHEMICAL WEAPONS DESTRUCTION.-- This condition requires the President to explore alternative technologies for the destruction of the U.S. chemical weapons stockpile.

PROTECTING U.S. INTELLIGENCE

Concerns have been raised regarding the compromising of U.S. intelligence information, sources and methods when it is shared with the CWC organization. Agreed conditions which address these concerns include:

INTELLIGENCE SHARING.--No U.S. intelligence can be shared with the CWC organization unless the President certifies that procedures have been established and implemented to ensure protection from unauthorized disclosure of U.S. intelligence sources and methods connected to such information.

U.S. AND MULTILATERAL EXPORT MAINTAINING AND STRENGTHENING CONTROLS. (Article XI)

Concern has been raised that Article XI, which provides for trade in chemicals for peaceful purposes, will weaken U.S. national export controls and multilateral export controls, such as those of the ad hoc Australia Group. Agreed conditions which address these concerns include:

CONTINUING VITALITY OF THE AUSTRALIA GROUP AND NATIONAL EXPORT CONTROLS.-- Requires the President to certify, prior to deposit, that nothing in the Convention obligates U.S. to accept any weakening of our export controls, that we maintain the right to impose export controls unilaterally or collectively on chemicals and chemical production technology, and that each member of the Australia

Group
agrees that its export controls are consistent with the CWC and
is
committed to maintain such controls in the future. Requires
annual
certification that Australia Group controls have not been
weakened
and remain effective or, if this cannot be certified,
consultation
with the Senate on a resolution of continued adherence to the
CWC.
Further requires the President to block any attempt with the
Australia Group to change the Group's view of its obligations
under
the CWC.

CONTROLLING THE TRANSFERS OF CW DEFENSE EQUIPMENT AND TECHNOLOGY.

Concerns have been raised that under Article X the United States
would be required to provide advance CW defense equipment to
countries such as Cuba and Iran. Agreed conditions which address
this
concern include:

ASSISTANCE UNDER ARTICLE X.--Requires the United States to limit
its assistance to countries of concern to medical antidotes and
treatments. Requires the United States not to contribute to a
voluntary fund for chemical weapons defense assistance.

U.S. ASSISTANCE TO RUSSIA

Concerns have been raised that Russia may not carry the lion's
share
of the financial burden for destroying its CW stockpile. Agreed
conditions which address these concern include:

FINANCING RUSSIAN IMPLEMENTATION. -- Requires the United States
to
reject any effort by Russia to make Russia's CWC ratification
contingent upon U.S. financial guarantees to cover Russian
destruction
costs.

FURTHER PROTECTIONS FOR INDUSTRY

Concerns have been raised that industry will be harmed by certain

restrictions in the Convention. Agreed conditions which address these concerns include:

PROTECTION OF CONFIDENTIAL INFORMATION.-- If the President is unable to certify that immunity has been waived for any employee of the CWC Organization who willfully discloses U.S. confidential information and consequently, causes financial damage, than 50 percent of the U.S. assessment shall be withheld.

PROTECTION OF ADVANCED BIOTECHNOLOGY. Requires the President to certify, prior to deposit, that the limitations on Schedule 1 chemicals and toxins are not adversely affecting the interests of U.S. chemical, biotechnology, and pharmaceutical firms.

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