
CHEMICAL WEAPONS CONVENTION

By

President Bill Clinton

[The following is a reprint of a letter which the President sent to the Senate on November 23, 1993.]

To the Senate of the United States: I transmit herewith, for the advice and consent of the Senate to ratification, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the "Chemical Weapons Convention" or CWC). The Convention includes the following documents, which are integral parts thereof: the Annex on Chemicals, the Annex on Implementation and Verification, and the Annex on the Protection of Confidential Information. The Convention was opened for signature and was signed by the United States at Paris on January 13, 1993. I transmit also, for the information of the Senate, the Report of the Department of State on the Convention.

In addition, I transmit herewith, for the information of the Senate, two documents relevant to, but not part of, the Convention: the Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons and the Text on the Establishment of a Preparatory Commission (with three Annexes), adopted by acclamation by Signatory States at Paris on January 13, 1993. These documents provide the basis for the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons (Preparatory Commission), which is responsible for preparing detailed procedures for implementing the Convention and for laying the foundation for the international organization created by the Convention. In addition, the recommended legislation necessary to implement the Chemical Weapons Convention, environmental documentation related to the Convention, and an analysis of the verifiability of the Convention consistent with Section 37 of the Arms Control and Disarmament Act, as amended, will be submitted separately to the Senate for its information.

The Chemical Weapons Convention is unprecedented in its scope. The Convention will require States Parties to destroy their chemical weapons and chemical weapons production facilities under the observation of international inspectors; subject States Parties' citizens and businesses and other non-governmental entities to its obligations; subject States Parties' chemical industry to declarations and routine inspection; and subject any facility or location in the territory or any other place under jurisdiction or control of a State Party to international inspection to address other States Parties' compliance concerns.

The Chemical Weapons Convention is also unique in the number of countries involved in its development and committed from the outset to its non-proliferation objectives. This major arms control treaty was negotiated by the 39 countries in the Geneva-based Conference on Disarmament, with contributions from an equal number of observer countries, representing all areas of the world. To date, more than 150 countries have signed the Convention since it was opened for signature in January of this year.

The complexities of negotiating a universally applicable treaty were immense. Difficult issues such as the need to balance an adequate degree of intrusiveness, to address compliance concerns, with the need to protect sensitive nonchemical weapons related information and constitutional rights, were painstakingly negotiated. The international chemical industry, and U.S. chemical

industry representatives, in particular, played a crucial role in the elaboration of landmark provisions for the protection of sensitive commercial and national security information.

The implementation of the Convention will be conducted by the Organization for the Prohibition of Chemical Weapons (OPCW). The OPCW will consist of the Conference of the States Parties, which will be the overall governing body composed of all States Parties, the 41-member Executive Council, and the Technical Secretariat, an international body responsible for conducting verification activities, including on-site inspections. The OPCW will provide a forum in and through which members can build regional and global stability and play a more responsible role in the international community.

The Convention will enter into force 180 days after the deposit of the 65th instrument of ratification, but not earlier than 2 years after it was opened for signature. Thus, the Convention can enter into force on January 13, 1995, if 65 countries have deposited their instruments of ratification with the depositary for the Convention (the Secretary General of the United Nations) by July 1994. The 2-year delay before the earliest possible entry into force of the Convention was intended to allow Signatory States time to undertake the necessary national legislative and procedural preparations and to provide time for the Preparatory Commission to prepare for implementation of the Convention.

The Convention is designed to exclude the possibility of the use or threat of use of chemical weapons, thus reflecting a significant step forward in reducing the threat of chemical warfare. To this end, the Convention prohibits the development, production, acquisition, stockpiling, retention, and, direct or indirect, transfer to anyone of chemical weapons; the use of chemical weapons against anyone, including retaliatory use; the engagement in any military preparations to use chemical weapons; and the assistance, encouragement, or inducement of anyone to engage in activities prohibited to States Parties. The Convention also requires all chemical weapons to be declared, declarations to be internationally confirmed, and all chemical weapons to be completely eliminated within 10 years after its entry into force (15 years in extraordinary cases), with storage and destruction monitored through on-site international inspection. The Convention further requires all chemical weapons production to cease within 30 days of the entry into force of the Convention for a State Party and all chemical weapons production facilities to be eliminated (or in exceptional cases of compelling need, and with the permission of the Conference of the States Parties, converted to peaceful purposes). Cessation of production, and destruction within 10 years after the entry into force of the Convention (or conversion and peaceful production), will be internationally monitored through on-site inspection.

In addition, the Convention prohibits the use of riot-control agents as a method of warfare, reaffirms the prohibition in international law on the use of herbicides as a method of warfare, and provides for the possibility for protection against and assistance in the event of use or threat of use of chemical weapons against a State Party. The Administration is reviewing the impact of the Convention's prohibition on the use of riot control agents as a method of warfare on Executive Order No. 11850, which specifies the current policy of the United States with regard to the use of riot control agents in war. The results of the review will be submitted separately to the Senate.

The Convention contains a number of provisions that make a major contribution to our nonproliferation objectives. In addition to verification of the destruction of chemical weapons, the Convention provides a regime for monitoring relevant civilian chemical industry facilities through declaration and inspection requirements. States Parties are also prohibited from providing any assistance to anyone to engage in activities, such as the acquisition of chemical weapons, prohibited by the Convention. Exports to non-States Parties of chemicals listed in the Convention are prohibited in some instances and subject to end-user assurances in others. Imports of some chemicals from non-States Parties are also banned. These restrictions will also serve to provide an incentive for countries to become parties as soon as possible. Finally, each State Party is required to

pass penal legislation prohibiting individuals and businesses and other nongovernmental entities from engaging in activities on its territory or any other place under its jurisdiction that are prohibited to States Parties. Such penal legislation must also apply to the activities of each State Party's citizens, wherever the activities occur. Through these provisions, the Convention furthers the important goals of preventing the proliferation of chemical weapons, while holding out the promise of their eventual worldwide elimination.

The Convention contains two verification regimes to enhance the security of States Parties to the Convention and limit the possibility of clandestine chemical weapons production, storage, and use. The first regime provides for a routine monitoring regime involving declarations, initial visits, systematic inspections of declared chemical weapons storage, production and destruction facilities, and routine inspections of the relevant civilian chemical industry facilities. The second regime, challenge inspections, allows a State Party to have an international inspection conducted of any facility or location in the territory or any other place under the jurisdiction or control of another State Party in order to clarify and resolve questions of possible noncompliance. The Convention obligates the challenged State Party to accept the inspection and to make every reasonable effort to satisfy the compliance concern. At the same time, the Convention provides a system for the inspected State Party to manage access to a challenged site in a manner that allows for protection of its national security, proprietary, and constitutional concerns. In addition, the Convention contains requirements for the protection of confidential information obtained by the OPCW.

The Convention prohibits reservations to the Articles. However, the CWC allows reservations to the Annexes so long as they are compatible with the object and purpose of the Convention. This structure prevents States Parties from modifying their fundamental obligations, as some countries, including the United States, did with regard to the Geneva Protocol of 1925 when they attached reservations preserving the right to retaliate with chemical weapons. At the same time, it allows States Parties some flexibility with regard to the specifics of their implementation of the Convention.

Beyond the elimination of chemical weapons, the Chemical Weapons Convention is of major importance in providing a foundation for enhancing regional and global stability, a forum for promoting international cooperation and responsibility, and a system for resolution of national concerns.

I believe that the Chemical Weapons Convention is in the best interests of the United States. Its provisions will significantly strengthen United States, allied and international security, and enhance global and regional stability. Therefore, I urge the Senate to give early and favorable consideration to the Convention, and to give advice and consent to its ratification as soon as possible in 1994.