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TOXIC TREATY

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HIGHLIGHT: How not to ban chemical weapons.

This summer, in addition to its high-profile push for health care and crime legislation, the Clinton administration is quietly pressing another initiative: ratification of the new Chemical Weapons Convention (cwc), which it touts as a comprehensive, global and verifiable ban on the possession of these horrible instruments of war. In late June the nation's top national security officials urged the Senate Foreign Relations Committee to vote for speedy approval. The trouble is, the cwc is a bad treaty--one that will likely increase the risk of chemical warfare around the world.

Its flaws were evident at the hearings. CIA Director James Woolsey, for example, admitted that while twenty-five countries are "working on" chemical weaponry, U.S. intelligence could not have "high confidence" in its ability to detect violations. General John Shalikashvili, chairman of the Joint Chiefs of Staff, noted that the Russians lack the resources to destroy their immense chemical stockpiles, and that Moscow is now misrepresenting its chemical weapons capabilities. And John Holum, director of the Arms Control and Disarmament Agency, said the Senate should put off any discussion of the treaty's costs until after ratification--a classic sales pitch for a pig in a poke.

While such statements should give the Senate pause, an accord billed as a means of "ridding the world of chemical weapons" has broad appeal. If the Senate does not give the cwc the scrutiny that it deserves, the treaty may be approved within days. It shouldn't be.

The cwc is falsely advertised. It is not comprehensive. It does not and cannot ban all chemical agents that can be used for warfare. The very chemicals that created horror in the trenches of World War I--phosgene and hydrogen cyanide--are explicitly exempted from the ban because they, like most key chemical weapon ingredients, are widely used for civil industrial purposes. (As one wit put it, it's as if the treaty drafters decided to ban hollandaise sauce but deemed it impractical to prohibit eggs and butter.) As for facilities capable of producing chemical weapons, the treaty requires their destruction only if their home country declares that they have actually been designed or used for that purpose. Facilities not so declared can continue to operate--yet almost any factory capable of producing fertilizers, insecticides, pharmaceuticals or plastics can also make chemical warfare agents.

The cwc is also not global: it will take effect after only sixty-five countries ratify it. Yet the United States is committed to charter subscriber status--so we intend to bind ourselves whether or not rogue countries such as Iran, Syria, Libya or North Korea sign on. Even if these countries do join, they can violate the treaty--as Iraq and North Korea have done with the Nuclear Non-Proliferation Treaty. The risks of detection are minimal and of punishment practically nonexistent. This is clear from the history of the oft-violated 1925 Geneva Protocol prohibiting initiation of chemical warfare. A recent example: Iraq's chemical attacks against Iran and the Kurds in 1988. The evidence,

including lurid videotapes of dead women and babies, impelled the convening of an international conference in Paris in January 1989. Yet the conferees could not approve a resolution even mentioning Iraq, let alone agree to punish it.

Nor is the cwc verifiable. Proponents stress that its verification regime is more intrusive, complex and burdensome than any ever negotiated. True, but it is not effective. No responsible U.S. official has even claimed that, if Iraq or Russia violates the treaty secretly, our intelligence agencies are confident they will detect it. Most of the cwc's voluminous verification provisions apply to "declared sites"--that is, places each party declares to be related to chemical weapons, and therefore open to regular inspection. Of the twenty-five states believed to have significant weapons programs, only two--the United States and Russia--have even admitted they have facilities to be declared.

The cwc also provides for so-called challenge inspections of undeclared sites--but how can we direct challenge inspections if we cannot detect violations by other means? We cannot spot-check a country the size of Iraq, let alone China or Russia. And even if we happen to locate a suspicious undeclared site, the cwc allows the challenged state to keep the international inspectors at bay for a week, during which time evidence can be destroyed. In any event, violators will have ample legal arguments for preventing proof of a violation.

Finally, the United States will grossly overpay for the treaty. Companies that have nothing to do with chemical weapons--producers of fertilizers, pharmaceuticals and plastics--will bear a heavy burden. According to the Congressional Office of Technology Assessment, the cwc's reporting and inspection requirements will hit more than 10,000 U.S. firms, costing specific firms hundreds of thousands of dollars and U.S. industry in general millions every year. And this does not include costs related to the loss of proprietary information. The inspection provisions will give foreign competitors an opportunity to garner sensitive data and conduct industrial espionage here.

Some cwc supporters say there is no harm in ratifying a ban on weapons that we have no desire to maintain in our own arsenal. But if the United States wants to renounce possession of chemical weapons, we could better do so through a unilateral declaration of policy. Such a declaration would be grounded in present circumstances and could be reversed if future conditions so dictated. While treaty abrogation is always available in theory, the politics of arms control in democratic nations makes it impractical. Recall our experience with the U.S.-Soviet Anti-Ballistic Missile (abm) Treaty. Long ago the United States decided the abm Treaty was bad policy, discovered major Soviet violations and received confirmation of the violations from Soviet officials themselves--yet no U.S. administration to this day, Republican or Democratic, has dared propose that we repeal the treaty.

The way to reduce the dangers of chemical warfare is through deterrence (i. e., a strong overall military capability) and defense. The cwc's effect, however, will be to mislead Congress and others about the magnitude of the abiding risks in this field. The result will be the opposite of the treaty's intention: it will increase the danger of chemical warfare, primarily by encouraging a false sense of security, discouraging our investment in chemical detection technology, protective gear, medical treatment and such. Chemical weapons are likelier to be effective, and therefore used, against undefended or ill-defended targets.

The cwc is an escapist exercise in that its promoters chose to dodge the real problem--a failure to enforce the existing 1925 ban on chemical weapons use--by promulgating a new ban on chemical weapons possession that has even dimmer enforcement prospects. The situation evokes the mythical town of Chelm, famous for its inhabitants' goofiness: the absence of police gives rise to a plague of murders, robberies and rapes; the elders convene in distress; they decide it is too difficult to organize a police force; so they legislate a few new prohibitions and congratulate themselves.

Honest diplomacy would focus not on ratifying an ineffective new ban but on shoring up the 1925 Geneva Protocol. The key is to ensure that states contemplating first use of chemical weapons know that they will be penalized severely. If military and financial penalties can be devised and actually imposed on countries that flout the 1925 Geneva ban, they might be deterred, in which case the cwc is unnecessary. If not, then treaty violators will continue to enjoy impunity, which makes the cwc not worth a fig.

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