



**STRATEGY
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CHEMICAL WEAPONS CONVENTION: BOON OR BUST?

BY

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USAWC STRATEGY RESEARCH PROJECT

Chemical Weapons Convention: Boon or Bust?

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ABSTRACT

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On April 24, 1997 the Senate ratified the Chemical Weapons Convention by a vote of 74 to 26. This act of consent ended four years of critical debate by the Senate, the Executive Branch, the Department of Defense, the chemical industry and more importantly the citizens; while simultaneously ushering in a false sense of security. This paper will analyze key issues effected by the Chemical Weapons Convention in an attempt to assess its impact on the national security of the United States.

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CHEMICAL WEAPONS CONVENTION: BOON OR BUST?

INTRODUCTION

On April 24, 1997 the United States Senate ratified the Chemical Weapons Convention (CWC) by a vote of 74 to 26. The Chemical Weapons Convention prohibits the development, production, acquisition, stockpiling, transfer, and use of chemical weapons, including riot control compounds "as a method of warfare." This act of consent ended four years of critical debate by members of the Senate, the Executive Branch, and the Department of Defense, the chemical industry and more importantly the citizens; while simultaneously ushering in a false sense of security.

The Chemical Weapons Convention is a potential chameleon. For the legions of pro CWC leaders it enhances the internal security of the country by criminalizing activities prohibited by the convention; it will remove an inhumane weapon from the battlefield by prohibiting all activities associated with toxic chemical agent use and transfer; it enhances the economic prosperity of the nation by increasing manufacture and export of industrial chemicals and enhances the lucrative chemical agent destruction industry (estimated at \$7 billion in the U.S. alone); and finally, it enhances our ability to shepherd dwindling

defense resources by eliminating all requirements for management, maintenance, production, and storage of chemical munitions. For CWC critics the Convention does little to reduce the potential use of toxic chemical agents on the battlefield or for terrorists domestically. The critics quickly refer to the 1925 Geneva Protocol which also prohibited the use of poison gas and biological methods of warfare; noting that in practice it accomplished little. The critics also believe that it reduces the effectiveness of current in-place safeguards, like those provided by the Australian Group. This Group restricts the sell or transfer of precursor or dual-use chemicals to undeveloped countries. However, the CWC defeats this safeguard by authorizing the sell of all chemicals to any country signing the Convention. The Convention also grants any signatory access to chemical defense research and technologies of other signatories upon demand, which critics view as potentially subversive. Finally, critics protest the ability of signatory nations to demand immediate access (24 hours) to any commercial facility having the ability to manufacture chemical agents. They have grave concern about the potential for industrial espionage and the loss of proprietary information. This paper will analyze key issues effected by the CWC in an attempt to assess its impact on national security.

BACKGROUND

LEGAL CONSTRAINTS

Efforts to outlaw or control the use or possession of chemical weapons have gone on in one form or another since the Hague Peace Conference of 1899. There, the contracting powers agreed to abstain from the use of projectiles which have a sole purpose of delivering asphyxiating or deleterious gases. Subsequently, at the Hague Conference of 1907, the use of poisons was outlawed. The treaties following World War I forbade manufacture or importation of gas weapons in Germany, Austria, Bulgaria, Hungary, and Turkey. The 1922 Washington Conference accepted a resolution condemning the use in war of asphyxiating gases and adopted prohibitory language similar to that which subsequently appeared in resolutions at the 1923 Conference of Central American States, the 1923 Fifth International Conference of American States, and Ultimately, the 1925 Geneva Protocol. Further proposals were developed for the General Disarmament Conference of the League of Nations (1932-1934). In the post World War II period the United Nations has pursued Chemical disarmament through the Disarmament Commission (1953), The Ten Nation Committee on Disarmament (1960), the Eighteen Nation

Committee on Disarmament (1962-1968), and the Conference of the Committee on Disarmament (1969-present).¹

The United States has pursued bilateral agreements with the former Soviet Union since the early 1970s. These discussions have produced two signed agreements aimed at eliminating CW stockpiles. The first agreement, the U.S.-Russian Wyoming Memorandum of Understanding (MOU) on Chemical Weapons, signed at Jackson Hole, Wyoming on September 23, 1989, Provides for a bilateral verification experiment and data exchange. The purpose of the Wyoming MOU was, and remains, to facilitate the negotiation, ratification and implementation of the CWC.²

The second agreement, the Bilateral Destruction Agreement, dated June 1, 1990, calls for the destruction and nonproduction of CW and measures to facilitate the conclusion of the CWC as a global ban on the entire class of weapons. This agreement has not been finalized and ratified, pending agreements on the conversion of former CW production facilities in Russia. There are also serious concerns over the technical and financial capability of the Russian Federation to actually carry out a comprehensive destruction program.³

Hostile Acts and Commissions

Modern toxic chemical agent warfare was introduced to the world on 22 April 1915. It was initiated by the Germans near Ypres, Belgium with shocking success. These weapons provided an immediate means of breaching defenses and disrupting attacks when employed against unprotected and untrained units. Chemical agents claimed approximately 1.3 million casualties during WWI, of which about 92,000 were fatal.⁴ This large casualty count and the insidious nature of these weapons caused the world at large to demand a prohibition of their use. The Geneva Protocol was the first successful international attempt to restrict the use of toxic chemical weapons on the battlefield. However, it only prohibited the use of chemical and biological weapons not their production and storage.

Six nations have reportedly used Chemical agents in an offensive manner since the Geneva Protocol was signed in 1925. Italy is believed to be the first violator employing mustard gas against Ethiopian forces from December 22, 1935 to April 7, 1936. These attacks are estimated to have caused approximately 15,000 military casualties and an unknown number of civilian casualties.⁵ Japan is believed to be the second nation to violate the Protocol by using mustard and other lethal chemical warfare agents against China from 1937 to 1942. However, it

should be noted that Japan was not a party to the Protocol at this time.⁶ During the mid-1960s Egypt was reported to have used chemical warfare agents in Yemen, during Yemen's civil war. Vietnam is also believed to have used biological toxins, potentially supplied by the Soviet Union, in Laos and Cambodia in the late 1970s. During the early 1980s the Soviet Union used lethal chemical agents and biological toxins in Afghanistan.⁷ Finally, chemical agents were used freely during the Iran-Iraq war from 1983 to 1988 and against the Kurds in 1987 and 1988.

Chemical weapons earned a permanent place in the conduct of war once military leaders realized the operational and strategic value they bring to the battlefield, primarily psychological effects and troop impedance. As a result, it is impossible for leaders to resist the tremendous advantage they provide when fighting large formations of unprotected or poorly trained soldiers. Given an appropriate target and favorable weather conditions, chemical weapons are among the most efficient killers on the battlefield. Their stature on the battlefield is not a matter for conjecture, for history has proven their relevance; and they will forever appear on the battlefield and in civilian communities to shock and demoralize the ill-prepared and the numerically superior adversary.

U. S. POLICY

U.S. policy pertaining to the CWC is well documented and unambiguous. As stated in the introduction, the Convention was ratified by the Senate on April 24, 1997. The Administration's policy on the CWC is articulated in a number of venues from presidential speeches to the May 1997, National Security Strategy which states: "The Administration supports international treaty regimes that prohibit the acquisition of weapons of mass destruction, including the Nuclear Non-proliferation Treaty (NPT), the CWC and the BWC."⁸

While the U.S. initiated efforts to implement the CWC in 1984, when then Vice President Bush offered a draft treaty to the Conference on Disarmament in Geneva, little has been done to seriously modify the behavior or beliefs of nations the treaty was intended to outlaw. The U.S. has successfully obtained the cooperation of its allies and peaceful nations on its venture to rid the world of chemical weapons. However, no real progress has been made in the Middle East or South Asia as noted in the United States Security Strategy for the Middle East:

"Nowhere is the need for steps to limit proliferation more pressing than in the Middle East, where many states are actively pursuing WMD and the means to deliver them. Three of the world's most dangerous proliferation threats-Iraq, Iran, and Libya-are in the Middle East. A number of Middle Eastern countries,

including all our likely regional adversaries, are developing chemical or biological warfare capabilities. Some already have them. Combined with the increasingly widespread distribution of short to intermediate range ballistic missiles and other delivery systems, such weapons are seriously destabilizing and have implications not only for the Middle East but also for southern Europe, the former Soviet Union, South Asia, and sub-Saharan Africa. The development of WMD in the Middle East is also intertwined through supplier and technology-transfer relationships with proliferation issues elsewhere in the world.

Traditional efforts to control the spread of WMD and missile delivery systems in this region have been largely unsuccessful. Many Middle Eastern states have either refused to participate in control regimes, such as the Non-Proliferation Treaty and the Chemical Weapons Convention, or pursued clandestine WMD programs despite their international commitments."⁹

It would appear that the U.S. policy on the CWC is correct and in step with the international community at large. However, much must be done to eliminate the fear and distrust that cause perceived outlaw states (Libya, Iraq, Iran, North Korea, and Syria) to maintain a deterrent capability. But can the U.S. accomplish this feat when it maintains the ultimate deterrent weapon?

DETERRENCE...IS THE CWC EFFECTIVE?

The question for America is...Does the CWC make the United States and the world at large a safer place to live and to conduct military operations, if required? This question can

readily be answered affirmatively if all nations of the world accept the CWC and comply with its mandate. However, not all nations signed the CWC and many of those that did have histories of unreliability and deceit. Therefore, I propose that we analyze the deterrent value of the CWC from three perspectives:

The CWC's ability to provide safeguards that prevents the spread of precursor chemicals and associated technologies. The CWC requires that all signatories destroy existing stocks of chemical munitions and agent stocks, remove any chemical weapons left in other countries, and dismantle production facilities. Signatories have ten years to accomplish these tasks, with a beginning date of April 29, 1997.¹⁰ Prior to this date the U.S. and 28 other nations (Australian Group) have imposed export controls on toxic chemicals and their precursors. The CWC eliminates these controls and others imposed by the chemical industry itself, potentially magnifying the problem of proliferation. Article XI, for instance, states that parties to the treaty shall:

Not maintain among themselves any restrictions, including those in any international agreement, incompatible with the obligations undertaken under this convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes.

This means that the U.S. and other Australian Group members can not restrict chemical trade with any other CWC party-even Iran and Cuba, both of which are CWC signatories.¹¹ One can also infer from this Article that western industrial companies are free to sell the technology required to build agricultural chemical and pharmaceutical plants in countries posing a potential military threat to the U.S.; all of which can be used for clandestine purposes.

The treaty is not without merit. It does provide provisions for signatories to pass domestic legislation criminalizing activities prohibited by the Convention. Such legislation would be useful in dealing with terrorists that may be interested in exploiting chemical weapons. In Japan, for example, Tokyo police were aware of the activities of the cult that conducted the March 1995 nerve agent attack in the subway, but they had no legal basis for seizing shipments of chemicals used to produce CW agents going to the cult or arresting cult members. Had the CWC been in force, Japan probably would have had this legislation on its books and could have thwarted this unfortunate incident.¹²

Without a doubt the CWC has made it easier for rogue nations to obtain a clandestine chemical capability. However, since chemical weapons can be easily manufactured by individuals with a

basic knowledge of chemistry it is impractical to eliminate the threat. As Ambassador Ledogar, Chief negotiator for Chemical Disarmament in Geneva said, "chemical weapons can be manufactured in almost anybody's garage, as long as you have a little high-school chemistry behind you." Because of their simplicity, chemical weapons cannot be controlled by monitoring or regulating the trade in the underlying technology.¹³

The CWC's potential for creating a disproportionate response to the use of toxic chemical agents. The U.S. decision to participate in the CWC raises questions about its ability to provide adequate safeguards against the use of chemical weapons by rogue nations. Participation in the CWC eliminated the U.S. long standing "retaliation in kind" policy. A policy that was enshrined by President Franklin D. Roosevelt during World War II. In 1943, President Roosevelt stated: "I have been loath to believe that any nation, even our present enemies, would or would be willing to loose upon mankind such terrible and inhumane weapons... Use of such weapons has been outlawed by the general opinion of civilized mankind. This country has not used them. I state categorically that we shall under no circumstances resort to the use of such weapons unless they are first used by our enemies."¹⁴

Does the absence of a retaliation in kind capability automatically escalate the response to the nuclear level or does it merely lead to a massive overwhelming conventional response? This is a question that can only be correctly answered when some nation decides to unleash its chemical arsenal on unprotected U.S. soldiers. When questioned about the U.S. ability to deter the use of chemical weapons against U.S. and allied forces, former Secretary of Defense William Perry Stated that the Defense Department: "supports giving up the ability to retaliate with [chemical weapons] because we have an effective range of alternate capabilities." Secretary Perry went on to state that the U.S. has advanced conventional weapons such as precision guided munitions, "and then we have nuclear weapons." He further declared that "the response will be absolutely overwhelming and devastating."¹⁵

Secretary Perry's comments raise serious questions about the U.S. policy on the use on nuclear weapons. The U.S. has pledged not to use nuclear weapons against a non-nuclear state that is a member of the nuclear Non-Proliferation Treaty or an equivalent regional agreement, unless the country attacks the U.S., its allies or its troops overseas and is aligned with a nuclear-weapon state.¹⁶ Based on Secretary Perry's comment and similar

comments by other high level officials it appears that the loss of a "retaliation in kind" capability has greatly enhanced the potential for a disproportionate (nuclear) response.

The CWC's ability to provide the teeth required to punish violators, be that transfer of technology or actual use of prohibited agents. The CWC just like its predecessor the Geneva Convention lacks any effective means to punish violators. These documents are drafted to obtain universal acceptance of the abhorrence of chemical warfare. They are not drafted or designed to put rules in-place that force compliance or establish provisions for internationally sanctioned actions (sanctions, blockades, and military strikes). To be effective, these treaties must contain visible consequences for international bullies that choose not to abide by their rules.¹⁷ The CWC's only form of consequence is Article XII which states..."The Conference shall, in cases of particular gravity, bring the issue, including relevant information and conclusions, to the attention of the United Nations General Assembly and the United Nations Security Council."¹⁸

As structured, the CWC fails to provide the teeth required to accomplish its lofty goals. However, no treaty can provide this assurance without authorizing some independent entity, with the

resources to conduct appropriate strikes, unilateral authority to act without regard for the political and economic voting that occurs in the United Nations. Since no nation will freely give up its sovereign rights to an independent entity, I submit that no treaty with less authority will be totally effective. Former Deputy Assistant Secretary of Defense, Douglas J. Feith, provides an excellent historical reference:

"During the Iran-Iraq war of the 1980s, Iraq used chemical weapons against Iran. This included the first military use ever of nerve gas. Iran invited a United Nations inspection team onto its territory to examine the victims, witness the damage, and study the unexploded chemical munitions fired from Iraq. Through gruesome videotapes, laboratory analyses, and other means, the inspectors proved that Iraq had used chemical weapons in violation of the 1925 Geneva Protocol, to which it is a party. That venerable treaty banned the initiation of chemical warfare. In other words, it banned use-as opposed to possession, which the CWC would ban. Iraq's widely publicized flouting of the Geneva Protocol led, a few months later-in January 1989-to the convening in Paris of a large international conference to do something to uphold the old treaty. But the conference could not agree upon any sanctions against Iraq. It did not resolve so much as to censure Iraq. Indeed, it could not pass a resolution even mentioning Iraq by name."¹⁹

History has shown that a strong retaliatory capability combined with the will to use it is the most effective means of removing this form of warfare from the battlefield. As for removing it from the domestic table of options, history provides no answers.

THE POTENTIAL IMPACT ON INDIVIDUAL AND UNIT READINESS

"Whether or not gas will be employed in future wars is a matter of conjecture, but the effect is so deadly to the unprepared that we can never afford to neglect the question."²⁰ This historic quote by General John J. Pershing should be a source of eternal light as we seek to maintain a ready force. However, too many leaders view NBC defense training as too physically demanding and distracting to mission related training to adequately prepare their soldiers for the possibility. This attitude can be seen in a Desert Shield/Storm Lessons Learned document compiled by the U.S. Army Chemical School:

"Both active and reserve component troops required extensive NBC defense training before and after arrival in Southwest Asia. At the end of Operation Desert Shield they were the best trained soldiers to fight in a chemical warfare environment at any time since the end of World War I. Comprehensive training programs were established and executed during the six-month period before Desert Storm. However, future conflicts may not afford us a train up period. NBC defense training must be integrated into all training and proficiency on basic survival skills must be maintained. Soldiers, as well as leaders must be continually ready to operate in an NBC environment."²¹

It was this attitude that prevailed prior to Desert Shield/Desert Storm and it is the attitude that prevails today. This attitude combined with the belief that the CWC has made the battlefield void of chemical warfare may farther degrade overall

readiness. The CWC will impact readiness fundamentally in two ways, training at the individual and collective levels and funding for chemical defense at the macro level.

Chemical defense training reached its zenith in the late 1970s and early 1980s. Spurred on by the accidental discovery of the Soviet chemical defense capability, during the 1973 Arab-Israeli War. During this period, individual, team, and unit NBC defense skills were aggressively trained and evaluated annually, to ensure compliance with Army standards. In 1984, the U.S. offered a draft treaty banning chemical warfare to the Conference on Disarmament. In the late 1980s, the U.S. made a public commitment to destroy its entire arsenal of unitary chemical munitions. Plans were initiated immediately following this announcement to remove all chemical munitions from Germany. It is impossible to attribute the decline in NBC readiness to any one of these events. However, I would propose that the CWC is the culprit that ultimately weakened the structural underpinning of the NBC training program. I also believe that this assertion is an unintended outcome of a perceived diminished threat; and that it provides junior and mid-level leaders with a rationale to wish away that training they prefer not to conduct. However, senior leaders still view the threat as a real and present

danger, as described by the former Commander in Chief, U.S.

Central Command, General (Ret) Schwarzkopf:

"My nightmare was that our units would reach the barriers in the very first hours of the attack, be unable to get through, and then be hit with a chemical barrage. We'd equipped our troops with protective gear and trained them to fight through a chemical attack, but there was always the danger that they'd end up milling around in confusion - or worse, that they'd panic."²²

Report after report confirms the continuing inadequacy of Army training as it relates to NBC defense. One aspect of the problem is highlighted in a May 1996 GAO Report which details CJCS exercises for 1995 and 1996 that included chemical or biological tasks; only 41 of a total 324 exercises included these tasks.²³ The report also shows the cascading effect of this lack of interest on lower levels training events, in its recommendation to DOD:

"Direct the Secretary of the Army and the Commandant of the Marine Corps to ensure that all combat training centers routinely emphasize and include chemical and biological training, and that this training is conducted in a realistic manner. Further, we recommend that the Secretary and the Commandant direct units attending these centers to be more effectively evaluated on their ability to meet existing chemical and biological training standards."²⁴

I assert that the fundamental problem is our failure to recognize that the CWC has removed the threat from the minds (*which corresponds to dollars and emphasis*) of the Congress and

the National Military Command Authority. Just as these same entities demanded an immediate dividend from the collapse of the Soviet Union, they have taken a dividend for the CWC while still recognizing the threat exists. In so doing, they show concern, but offer no solution for the problem. As reflected in the GAO report: "We could not determine whether increased emphasis on chemical and biological warfare defense is warranted at the expense of other priorities. This is a matter of DOD's military judgment and congressional funding priorities."²⁵ This issue is important enough for congress to investigate it every four to five years but it does not seek to identify the systemic problems, only the effects. Which leaves commanders in the field with the tough decisions that relate to prioritizing the single most important resource they manage...*training time*. I assert that they accomplish this based upon the threat...which translates to *emphasis and dollars*; and the CWC has removed that threat.

The May 1997 White House Document, "A National Security Strategy for a New Century," identifies weapons of mass destruction as the greatest potential threat to global security.²⁶ With this statement as a backdrop, DOD funding fails to demonstrate commensurate concern when reviewing Army budgets for

chemical defense system purchases/upgrades and when reviewing Army Operation and Maintenance (Budget Activity 1...*training dollars for the operating forces*) authorizations. The Fiscal Year 1997 and 1998 Army Budgets both reflect decreases in funding for training and no procurements authorized for critical chemical defense systems like the NBC Reconnaissance vehicle.

DOD does appropriate minimal funding for individual and collective protection equipment (76(M) in FY95); however, these dollars are not fenced for the sole purpose of NBC defense and are spent for a variety of needs by commanders at all levels. During the cold war years (1978-1985) when there was an acknowledged concern for the Soviet chemical warfare threat Congress appropriated approximately \$4 billion for defense against chemical warfare.²⁷ These funds were fenced and required periodic reporting to Congress on the overall NBC defense posture. Dwindling budgets have caused commanders at all levels to make budget decisions that sacrifice capability, unfortunately NBC defense is the sacrificial lamb in many cases. Congress and DOD must reevaluate the importance of NBC defense and establish guidelines that implement their concern and intent. Their failure to acknowledge that the CWC is a driving force behind the actions of the Services and commanders and failure to increase

chemical defense funding and controls will continue to yield GAO conclusions as follows:

In view of the increasing chemical and biological warfare threat and the continuing weaknesses in U.S. chemical and biological defense capabilities noted in this report, we recommend that the Secretary of Defense reevaluate the priority and emphasis given to this area throughout DOD. We also recommend that the Secretary, in this next annual report to Congress on NBC Warfare Defense, address (1) proposed solutions to the deficiencies identified in this report and (2) the impact that shifting additional resources to this area might have on other military priorities.²⁸

CONCLUSION

Hopefully this paper has provided insight into the CWC and its inherent inability to deter chemical warfare. It is my personal opinion, supported by mountains of evidence, that the CWC, like the 1972 Biological and Toxin Convention, offers little hope of ridding the world of chemical warfare. The BWC did not prevent a determined rogue like Iraq from pursuing a biological capability in the midst of United Nations Special Commission inspections, to eradicate these weapons. Like wise it did not prevent industrialized nations like Germany, France, and Russia from peddling sophisticated fermentation equipment to Iraq and other rogue nations for the almighty dollar. It did not prevent their use in Laos, Cambodia or Afghanistan, and it has not prevented the public concern for domestic terrorism. The only

real solution is an effective deterrence (*preparedness and punishment*). The CWC actually has the potential to increase the spread of chemical warfare technology to small non-aligned nations that are desperately seeking the industrial advantages provided by restricted chemicals and industrial technologies. I will close my analysis on the value of the CWC with a profound statement by former Deputy Assistant Secretary of Defense, Douglas J. Feith:

Events in recent years should have resolved once and for all the question of whether a ban on chemical-weapons possession can be verified effectively. The mandate of the United Nations Special Commission (UNSCOM) on Iraq was to see to the dismantling of Iraq's offensive-warfare programs: chemical and biological weapons, nuclear weapons, and long-range missiles. It has had more than a thousand inspectors combing Iraq on the ground ever since Iraq's defeat in Desert Storm in 1991. The UNSCOM inspectors have had extensive and thorough access in Iraq over a longer period of time than inspectors would have in any country under even an extreme reading of the CWC. Nevertheless, after three, four, and five years of persistent (and courageous) on-the-ground investigations, UNSCOM inspectors continually make significant new discoveries about Iraq's chemical-and biological-weapons activities. In other words, years of intense scrutiny of a single country that was compelled to cooperate have not sufficed to uncover all the major elements, let alone the finer points, of the Iraqi programs. Under the circumstances, one can hardly maintain that inspections under the CWC, burdensome though they will be, can ensure effective monitoring. Ambassador Rolf Ekeus of Sweden, who heads UNSCOM and who helped negotiate the CWC, remains a supporter of the new treaty, but he has stated candidly and categorically that it would not be effective

against countries like Iraq that acts clandestinely and in bad faith.

If the CWC will not be effective against countries like Iraq, it is reasonable to ask, what is the need for it? The CWC's purpose is precisely to constrain dangerous, secretive, nondemocratic countries like Iraq, and if it clearly will not do so, then the treaty has no reason for being.²⁹

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