

these guidelines remain an unresolved issue. This means that the Secretariat cannot confirm that chemical weapons declared as OCW by states parties are, in fact, old chemical weapons. Because of this, all of the inspections which the Secretariat has so far conducted to O/ACW sites remain open. If guidelines on usability are not finalised soon, the Secretariat will have to treat all OCW as usable and therefore falling under the provisions for chemical weapons. This would have major resource implications for the Secretariat and budgetary implications for those member states declaring OCW.

States parties have yet to decide on the format for the submission of information on national protective programmes under Article X.4. Currently states parties themselves can decide what to include, making it difficult to compare declarations and perhaps encouraging some states parties to not submit any information at all. Instead of increasing transparency, such an outcome might serve to raise suspicions between member states. International cooperation issues under Article XI need resolution in order that the Secretariat can allocate resources to the relevant programmes within the budget. Trade issues have political im-

portance for some states parties and the lack of agreement could begin to hamper the implementation of the Convention in other areas.

In addition to the unresolved issues, much work still remains to be done by the Organization, both in terms of implementation of the Convention and institution building. The backlog of facility agreements is now being tackled and the first bilateral agreements on privileges and immunities have been drafted by the Secretariat. Internal discussions on the 1999 OPCW budget have also begun and the Scientific Advisory Board is getting closer to being established. Another impending issue relates to the implementation of Article VII by states parties. The Secretariat is undertaking an initial review of information submitted under Article VII.5 and is also studying the measures taken so far by states parties to implement Article VII.2 on legal assistance. These issues, and others, will assume increasing importance over the coming months.

This review was written by Daniel Feakes, the HSP researcher in The Hague

Progress in Geneva

Quarterly Review no 3

Strengthening the Biological and Toxin Weapons Convention

A further one week meeting, the tenth session, of the Ad Hoc Group to consider a legally binding instrument to strengthen the Biological and Toxin Weapons Convention (BWC) was held in Geneva from Monday 9 to Friday 13 March. As at the ninth session, held in January, negotiations focused on the rolling text of the Protocol. However, because this was a short session, the negotiators focused on three aspects only: compliance measures, the investigations Annex and measures related to Article X of the BWC.

Forty-nine states parties and 3 signatory states participated at the tenth session; a net total of five states parties fewer than in January as 7 states (Iraq, Jordan, Malta, Nigeria, Singapore, Thailand and the Ukraine) did not participate in March whilst 2 states (Kenya and Mauritius) which had not participated in January did in March.

Nine new Working Papers were presented during the March session, some 24 fewer than in the three-week meeting in January. As usual, these were presented both by states parties (South Africa 2, United Kingdom 2, Austria 1, Brazil 1) and by the Friends of the Chair (3).

Further progress was made in the March meeting with serious negotiations addressing the language in the square brackets. As it was a one week meeting there was some attempt to "put a quart into a pint pot". Sessions began an hour earlier at 0900 and 1400 to enable informal meetings without interpretation to be held prior to the formal ones. These appeared to be useful as they enabled the issues to be ventilated and discussed prior to the formal negotiation.

As only three aspects of the Protocol were addressed, instead of producing a revised version of the rolling text, re-

ports were prepared of the results of the discussions in the three areas; these were attached to the procedural report of the March meeting {BWC/AD HOC GROUP/40}.

Of the 10 meetings held, 4 were devoted to compliance measures, 2 to Article X measures, and 4 to the investigations Annex. There was no change in the Friends of the Chair who were the same as in January.

The session saw the UK, as holder of the EU Presidency, circulating on 9 March the Common Position {see *News Chronology* 4 March} which committed not only the 15 EU states but also the 14 associated states to:

Member States ... shall actively promote decisive progress in the work of the Ad Hoc Group, with a view to concluding the substantive negotiations by the end of 1998, so that the Protocol can be adopted by a Special Conference of States Parties early in 1999.

An Australian statement to the Ad Hoc Group said that the country's Minister of Foreign Affairs had a week earlier announced, as part of the response to the recent crisis caused by Iraq, an initiative to strengthen the BWC. This was:

aimed at fast-tracking the negotiations on a verification system for the Biological Weapons Convention by: - calling for the convening of a high level meeting to inject into the negotiations the necessary political commitment for urgent action ... to help secure early conclusion to the negotiations.

It is likely that a meeting will be held at foreign minister level later this year or early in 1999 to give additional political impetus to complete the negotiation of the Protocol.

The major contentious point in the March meeting was a move by members of the Western Group to introduce significant changes to Article VII of the draft Protocol concerned with the implementation of Article X of the BWC. The Protocol emerging from the January 1998 session had a title for Article VII which had no square brackets, indicating consensus, which read as follows:

ARTICLE VII SCIENTIFIC AND TECHNOLOGICAL EXCHANGE FOR PEACEFUL PURPOSES AND TECHNICAL COOPERATION

The amendment that was introduced was to put the title into square brackets by introducing the alternative “Implementation Assistance” so that the title now reads as:

ARTICLE VII [SCIENTIFIC AND TECHNOLOGICAL EXCHANGE FOR PEACEFUL PURPOSES] [IMPLEMENTATION ASSISTANCE] AND TECHNICAL COOPERATION

Given that the mandate for the Ad Hoc Group explicitly requires the Ad Hoc Group, *inter alia*, to consider “Specific measures designed to ensure effective and full implementation of Article X ...”, this amendment cast doubt upon the willingness of the Ad Hoc Group to address measures to implement Article X of the Convention. These doubts were reinforced by other amendments which placed within square brackets a whole section within Article VII entitled “Measures to avoid hampering the economic and technological development of States Parties” and the title “International Cooperation” of another section. The Non-Aligned Movement and Other Countries (NAM) group — which has long regarded implementation of Article X as an important element of the work of the Ad Hoc Group — issued a statement on the afternoon of 13 March, just before the end of the March session, in which they expressed

their concerns at attempts to reduce the scope and importance of issues related to Article X of the Convention

and went on to say that:

Substantive progress in strengthening the application and full operationalisation of Article X is crucial to the conclusion of a universally acceptable and legally binding instrument designed to strengthen the Convention. They reaffirm readiness to work with other delegations in order to achieve an appropriate balance in the Protocol.

The same NAM statement also put down markers of concern about the timescale proposals for the negotiations pointing out that the decision of the Fourth Review Conference that the Ad Hoc Group should complete its negotiations as soon as possible enjoyed consensus support from all states parties of the BWC and about any consideration of alternative texts to the existing rolling text, thereby registering dissent with the Australian statement which had included the mention that Australia might produce an alternative text (as Australia had done for the CWC and for the CTBT).

These are retrograde steps by the Western Group in regard to Article VII of the Protocol as they fail to recognise that it is possible to design measures that will aid the implementation of Article X of the Convention and directly contribute to the enhancement of transparency and the building of confidence in compliance with the Convention. Furthermore, such Article X measures can also promote

trade and serve as a powerful incentive to encourage states to become parties to the Protocol (and to the Convention). It is to be hoped that a more positive approach is adopted at the next Ad Hoc Group session in June/July.

The Emerging Regime

Compliance measures The outcome of the discussions on compliance measures saw the development of replacement text for three elements of Section F [Visits and Investigations] of Article III Compliance Measures:

- *Visits* — In the January rolling text, there had been “Request” and “Voluntary” visits; in the March session these became “Voluntary” and “Voluntary Confidence-Building Visits” respectively with the text for the new “Voluntary Visits” being elaborated from 1 to 5 paragraphs. It is made clear that a “State Party may [request][volunteer for][invite][the Organization] to undertake visits to facilities” to help compile declarations, further the cooperation and assistance provisions, resolve specific concerns about declarations, including any ambiguity or resolve a specific concern. All the objectives of the voluntary visits are in square brackets.
- *BWC Article III (non-transfer) measures* — The entire element has now been placed in square brackets.
- *Investigations* — This element of Article III. F has been tidied up and there has been a major restructuring of the information required with “requests for [field] investigations [into alleged use of biological weapons]”. The rolling text for “Random Visits” and “Clarification Visits” was not considered during the March session.

Measures related to Article X As already mentioned, the title of Article VII of the Protocol was modified so as to include “[Implementation Assistance]” which was further emphasised by the inclusion of a set of alternative paragraphs for the Section A General Provisions of Article VII. These alternatives make it clear that:

the implementing organization shall provide a forum for consultation and cooperation in matters to promote implementation assistance and technical cooperation for peaceful purposes

and that:

the implementing organization should assist States Parties, on request, in obtaining implementation assistance, coordinating its efforts as appropriate with other States Parties.

The impression is left that Article VII is much more about assistance in the implementation of the Protocol rather than strengthening the implementation of Article X of the BWC.

In Section B, Measures to Promote Scientific and Technical Exchanges, the first paragraph of which states that “each State Party undertakes to implement specific measures in order to ensure that: (a) the provisions of Article X of the Convention ... are [fully and] effectively implemented”, had in January only minor square brackets within its subparagraphs. Now the entire paragraph is within square brackets.

Throughout the remainder of the revised Article VII additional square brackets have been inserted where none ex-

isted previously. Cumulatively, the message is negative. There has been a clear failure by those introducing these changes to recognise that there are indeed Article X implementation measures which will directly contribute to strengthening the Convention and will bring substantial benefits to all states parties. Two University of Bradford Briefing Papers (6 & 7) which identified potential areas for such Article X measures were distributed during the March session to the AHG delegations.

Investigations Annex The discussions on Section II [Field] Investigations [of alleged use of BW] of this Annex saw the production of replacement language which has tidied up the text, removed some square brackets and reordered some aspects of the Annex. Some additional timings in square brackets have, however, been introduced which result in some inconsistencies which clearly need to be resolved. For example, two alternative durations for such investigations now appear of “[30]days [84 hours]” yet later on interview requests shall be given “[not less than 48 hours before conducting it]”. This is hardly likely to be possible were the shorter duration of the investigation to be adopted.

An Appendix was also produced of a “List of Approved Investigation/Visit Equipment” which, by comparison with the CWC, would seem to be an excessive level of detail. There would also seem to be a real danger of locking the BWC Protocol into 1990s technology as there is no sign of any provision for the inclusion of new advanced equipment which will certainly be developed in the next millennium.

Finally, an informal working paper was prepared by the Friend of the Chair on the Investigations Annex in which language which had appeared on managed access in Annex D Investigations was forwarded to the Friend of the Chair on Compliance Measures for consideration in dealing with the text on managed access in Article III of the Protocol. Such a move should lead to a useful reordering and tidying up of the text.

Prospects

The March meeting also saw the agreement of the programme of work for the eleventh session to be held on 22 June to 10 July. This made the following allocation of the 30 meetings to the various topics:

Compliance measures	6
Definitions	6
Investigations annex	4.5
Article X	4
Confidentiality	4
Legal issues	1.5
Organization	1.5
National implementation	1.5
Ad Hoc Group	1
Informal consultation	2
<hr/> Total	<hr/> 30

Since the March Ad Hoc Group meeting, there has been a flurry of meetings and occasions, notably in May, on

which the importance of the strengthening of the BWC has been emphasised. The G-8 Foreign Ministers in the communiqué issued following their meeting in London on 8–9 May said that they:

are committed to action in the following areas: — the intensification and successful conclusion of the negotiations on measures, including for effective deterrence and verification, to strengthen the Biological and Toxin Weapons Convention with the aim of the earliest possible adoption of a legally-binding Protocol.

The Swedish Pugwash Group organised an international meeting on 9 May at which international cooperation and assistance were discussed and comparisons made between the OPCW experience in the early implementation of the CWC and the implementation of Article X of the BWC. Various measures that could both implement Article X of the BWC and contribute directly to strengthening the BW were identified.

The UK, as holders of the EU Presidency, as foreshadowed in the EU Common Position issued in March, organized a seminar in Brussels on 13 May for European industry at which the various key elements of the Protocol — declarations, visits and investigations — were outlined by representatives of various EU countries (Austria/UK on declarations, Netherlands/Sweden on visits, and France/Germany on investigations) and the implications for industry examined. Observers attended from Japan and Switzerland. The presentations made it clear that the numbers of facilities to be declared within an individual EU country can probably be measured in tens rather than hundreds, that such declarations should not seek any commercially sensitive information and that the total annual number worldwide of visits would be in the order of 50 to 100 which would be spread equably between the five or six geographical blocks.

At the end of May, on 28 & 29, the Institute of Applied Microbiology in the University of Agricultural Sciences in Vienna organised a Conference entitled “A Strengthened Biological and Toxin Weapons Convention: Potential Implications for Biotechnology” which was attended by about 100 people from some 22 countries including several outside Europe such as Australia, Brazil, Egypt, Iran, Korea, South Africa and the USA as well as the WHO. Participants came from both biotechnology industry and academia as well as from governments. For the first time, the strengthened BWC Protocol was considered in the context of the other relevant controls and regulations relating to biotechnology; those resulting from the implementation of the CWC; those relating to health and safety within the European Community; those likely to result from the legally binding Biosafety Protocol nearing completion under the Convention on Biological Diversity; those associated with ensuring that medicinal and veterinary products are safe for humans and animals; and those recently introduced in the United States to inspect and monitor facilities engaged in handling, storing and transferring select agents. There was a lively discussion of all the relevant issues and a clear recognition of the importance of avoiding duplication in the collection and reporting of data.

Further indications of high level political attention to the strengthening of the BWC came towards the end of May with the Ministerial Meeting of the Coordinating Bureau of

the Non-Aligned Movement at Cartagena des Indias, Columbia on 19–20 May when the Ministers of Foreign Affairs and Heads of Delegations in their communiqué said that:

The Ministers noted the progress achieved so far negotiating a Protocol to strengthen the Biological and Toxin Weapons Convention and reaffirmed the decision of the Fourth Review Conference urging the conclusion of the negotiations by the Ad Hoc Group as soon as possible before the commencement of the Fifth Review Conference and for it to submit its report ... to be considered at a Special Conference.

The communiqué also reiterated the importance of progress in implementing Article X as being crucial for the conclusion of the Protocol to strengthen the BWC. Later, in the same week, President Clinton on 22 May 1998 announced a

major initiative to counter attacks using biological weapons. In this he said that:

we must pursue the fight against biological weapons on many fronts. We must strengthen the international Biological Weapons Convention with a strong system of inspections to detect and prevent cheating. This is a major priority. It was part of my State of the Union address earlier this year, and we are working with other nations and our industries to make it happen.

The next meeting of the Ad Hoc Group will be held in Geneva from 22 June to 10 July when further progress on the text of the Protocol can be expected.

This review was written by Graham S. Pearson, HSP Advisory Board

News Chronology

February through May 1998

What follows is taken from the Harvard Sussex Program CBW Events Database which provides a fuller chronology and identification of sources, all of which are held in hard copy in the Sussex Harvard Information Bank. The intervals covered in successive Bulletins have a one-month overlap to accommodate late-received information. For access to the Database, apply to its compiler, Julian Perry Robinson.

February The US Defense Department submits its annual report to Congress on *Nuclear/Biological/Chemical (NBC) Defense*, the fifth such report under Section 1703 of the FY 1994 National Defense Authorization Act [see 30 Nov 93]. The purpose of the report is to provide Congress with an assessment of the overall readiness of US armed forces to fight in an NBC-warfare environment. Its 268 pages review in detail many aspects of US military preparedness for CBW, including implementation of the CWC — though not including such matters as counterproliferation active-measures [see 25 Nov 97], or chemical non-lethal weapons. As to threat assessment, the report observes in its Introduction: "Many of the components for new binary agents developed under the former-Soviet program [see 4 Feb 97] have legitimate civilian applications and are not on the CWC's schedule of chemicals". Among the accomplishments noted in the Threat Category: Nerve Agents part of the report on the medical chemical defence R & D programme during FY 1997 is determination of the subcutaneous median lethal dose in guinea-pigs and rats of "four classified novel agents".

1–6 February In Baghdad, there are international 'technical evaluation meetings' [see 19–21 Jan] on the accounting for Iraq's proscribed missile warheads and for the Iraqi VX chemical weapons programme [see 27 Oct 97]. In the subsequent words of UNSCOM Executive Chairman Richard Butler, "[t]he Commission had agreed to these meetings in view of Iraq's claims that it had destroyed and/or no longer had any weapons of mass destruction and, where there was disagreement between the Commission and Iraq on these issues of substance, those disagreements should be settled in technical 'seminars' with the participation of both international and Iraqi experts" {S/1998/176}. Speaking on Iraqi television {2 Feb in BBC-SWB

4 Feb} as the TEMs begin, the head of Iraq's National Monitoring Directorate, Husam Muhammad Amin, says: "Iraq has met all its commitments under resolution 687 by presenting information and destroying banned weapons. UNSCOM raises secondary points, however, which it believes to be important; therefore, certain concepts are built on these points far from reality. In order to assess these points, Iraq has proposed hosting scientists, specialists, industrialists and technicians to participate in the assessment of discussions between the two sides. We hope that these meetings will make UNSCOM admit that the missiles file, namely the warheads file, was closed long ago. ... The seminars are being held in a professional atmosphere. We hope that these files will be closed by joint seminars and that UNSCOM will sense the credibility of Iraq's announcements and then recommend the application of Paragraph 22."

The modalities of the TEMs, as previously agreed between UNSCOM and Iraqi authorities [see 12–16 Dec 97], are as follows: "(a) The Executive Chairman would invite qualified objective international experts to take part and participate in the Commission's team. They would be chosen from the countries having the necessary expertise; (b) The Commission would prepare a dossier for the team containing all the relevant information. The dossier would be made available to the Iraqi side to enable it to respond to relevant questions at the technical evaluation meeting; (c) The discussions at the meetings would be conducted in an open and continuous manner in order to enable joint evaluation of technical issues; (d) The Commission's team would advise the Executive Chairman on its findings as a result of the meetings. The Executive Chairman would then incorporate these findings in appropriate reports to the Security Council and the Government of Iraq." {S/1997/987}