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Report of the Ad Hoc Working Group on Chemical Weapons on its  
work during the period 17-28 January 1983

I. ORGANIZATION OF WORK

1. In accordance with the decision taken by the Committee on Disarmament at its 138th plenary meeting held on 17 September 1982, the Ad Hoc Working Group resumed its work on 17 January 1983 under the Chairmanship of Ambassador Bogumil Sujka of Poland. Mr. Abdelkader Bensmail, Senior Political Affairs Officer, Department for Disarmament Affairs, continued to serve as Secretary of the Ad Hoc Working Group.
2. The Ad Hoc Working Group held five meetings from 17 to 28 January, and the remaining time was devoted to meetings of the Contact Groups set up during the summer session of the Working Group. In addition, the Chairman held a number of informal consultations with delegations.
3. Also in accordance with the decision taken by the Committee on Disarmament at its 138th plenary meeting, the Chairman held consultations with delegations on the technical issues identified in paragraph 12 of document CD/334.
4. The representatives of the following States not members of the Committee on Disarmament participated in the work of the Ad Hoc Working Group: Austria, Denmark, Finland, Norway and Switzerland.
5. The Chairman of the Working Group summed up his views on the work done during the period 17-28 January 1983. These views are reproduced below in part II of this report.
6. The reports of the Co-ordinators of the Contact Groups are reproduced below in part III of this report.
7. The Chairman's views and the Co-ordinators' reports are without prejudice to the views and positions of the delegations.

II. CHAIRMAN'S VIEWS ON THE COURSE OF THE DISCUSSION DURING THE PERIOD  
17-28 JANUARY 1983

8. The Group continued the process of elaboration of the convention, taking into consideration the reports of the Co-ordinators of the Contact Groups as contained in document CD/334, and the views of the Chairman on possible compromise wordings of the elements of the future convention as contained in document CD/333. In the course of the deliberations both in plenary meetings of the Working Group and in the contact groups, views were expressed and comments made on these two documents which reflect

the present stage of the negotiations on a chemical weapons convention. Due account was also taken of other existing proposals. Some delegations were of the view that, on certain aspects of the convention, the actual stage of negotiations allowed to proceed to the drafting process, while others considered that further discussion on specific aspects was needed.

9. In the plenary meetings of the Working Group, in the meetings of the Contact Groups and in the informal consultations, the following aspects of the convention were addressed:

- scope of the convention
- definitions
- destruction, diversion, dismantling and conversion
- national implementation measures
- national technical means of verification
- consultation and co-operation; consultative committee
- preamble and final clauses of the convention

10. The discussion on the scope of the future convention was conducted in close connection with the preamble and final clauses of the convention. It was generally agreed that the basic positions on the inclusion or not of a prohibition of use of chemical weapons as contained in the Annex to document CD/334 could not meet with consensus. A view has been expressed that the working hypothesis proposed by the co-ordinator of the Contact Group should be further elaborated. In this context, a concept of a new element recognising that any use of chemical weapons will ipso jure constitute an evidence of a violation of the convention (paragraph 3 of the working hypothesis) was suggested. An acceptable proposal for the text of this new article could not be worked out by the co-ordinator during this period, and this effort should be pursued.

11. Due to the fact that the definitions of precursors and key precursors were under discussion in the Chairman's consultations on technical issues, these matters were not brought up in the Contact Group on definitions. Also, due to the time factor, some other matters brought up in the report were not discussed. On the questions that were discussed the following main results were noticed: some delegations pointed out that in their opinion the areas of agreement which occurred in the report of the co-ordinator (CD/334) had been adequately reflected and precisely worded in CD/333, and in particular, that the general definitions contained therein covered all chemicals which should be prohibited by the Convention. Some delegations put forward new ideas to include very toxic and incapacitating, but not lethal, compounds into the same class of super-toxic lethal chemicals by recognizing also the possibility to set the same toxicity limit for these types of compounds as for the super-toxic substance by relating also to the effective dose.

12. With regard to destruction, diversion, dismantling and conversion, the Contact Group reviewed the report of the Co-ordinator, as contained in document CD/334. In the course of this review, the Group attempted to determine whether there had been changes in the positions of delegations as recorded in that report, and also endeavoured to refine and clarify concepts and formulations relating to the destruction of stocks and facilities. Some of these concepts were clarified and some others need further elaboration.

13. With regard to national implementation measures, there was general agreement that States Parties should take the appropriate measures to implement the convention and organize and employ their national implementation system in accordance with their own legislation. Whereas some delegations felt that for those reasons it was not necessary to reflect on the internal functions of this system, others deemed it appropriate to establish an Annex to the convention containing guidelines concerning the functions of the national implementation system. These delegations felt that the corresponding examples given in documents CD/334 and CD/333 served this purpose and could be further elaborated. Concerning the co-operation between the national and international bodies in implementing the Convention, there was general agreement that the tasks reflected in the above-mentioned documents were relevant and should be further elaborated. Questions with regard to the legal nature of the Annex and its place in the Convention should be solved at a later stage.

14. Some proposals were made to revise the draft element on national technical means of verification contained in document CD/333 by inserting some ideas from the relevant part of document CD/334. Proceeding from this, the co-ordinator proposed a new wording which in his view could be of some assistance in drafting a possible Article on national technical means at a later stage. At the same time and in order to take into account the positions of all sides he provided a second alternative which in a general way would foresee the possibility to use national technical means of verification for the purpose of monitoring compliance with the convention. For the next stage of the work of the Chemical Weapons Working Group it has been suggested to discuss jointly all aspects of the verification system of the future convention in order to reach a clear understanding on the interrelationship between the different elements of this system.

15. With regard to Consultation and Co-operation and the Consultative Committee, the Contact Group reviewed the concepts pertaining to the chapter on consultations and co-operation as well as the section corresponding to the fact-finding procedures. Discussions were also focused on the functions and eventual structure of the Consultative Committee. These in-depth discussions helped to clarify the different positions of delegations with respect to the sub-elements identified in 1982, and brought the Group closer to the elaboration of specific provisions in this regard. In the course of the discussions, references were made to various documents already tabled by delegations as well as to the suggestion on possible compromise wordings presented by the Chairman of the Working Group in document CD/333.

### III. REPORTS OF THE CO-ORDINATORS OF THE CONTACT GROUPS

#### A. Report of the Co-ordinator of the Contact Group on the scope of the future convention

The Contact Group on the scope of the future convention met once and informal consultations did also take place. The main conclusion which appeared during these activities was that the basic positions on the inclusion or not of a prohibition to use chemical weapons, as contained in the Annex to document CD/334 could not meet with consensus and that other solutions should be explored. The view was expressed that the "working hypothesis" proposed by the co-ordinator of the Contact Group should be further elaborated in order to give all participants the possibility of considering it as a possible solution for the scope of the future convention. In this context, it was recommended that the concept of a new article in the future convention recognizing that any use of chemical weapons will ipso jure constitute an evidence of a violation of the convention (paragraph 3 of the "working hypothesis") should be further elaborated and detailed.

An acceptable proposal for the text of this new article could not be worked out by the co-ordinator during this period, and this effort should be pursued.

#### B. Report of the Co-ordinator of the Contact Group on Definitions

The aim of the discussion was to find out if any new developments had occurred with respect to some of the items treated in the previous report, CD/334, Annex I, pp. 3-10: paragraph 6 on a Working Hypothesis for a definition of chemical weapons and paragraph 7 on a Working Hypothesis on definition of permitted purposes. Due to the fact that the definitions of precursors and key precursors were under discussion in the Chairman's consultations on technical matters these matters were not brought up. Also, as the remaining matters in the report had not been brought up during the period they were left aside.

The following main results were noticed:

- Some delegations pointed to that in their opinion the areas of agreement which occurred in the report of the Co-ordinator had been adequately reflected and precisely worded in the CD/333.
- Some delegations put forward new ideas to include also very toxic and incapacitating, but not lethal, compounds into the same class of supertoxic lethal chemicals by recognizing also the possibility to set the same toxicity limit for these types of compounds as for the supertoxic substance by relating also to the effective dose. This "effective" toxicity could be measured by any scientifically sound method, but would only need to be done so following

allegations on complaints, verification of stockpiles etc. In addition the quantity criterion should apply, so that such incapacitating chemicals, which had also use for permitted purposes, might be subject to different kinds of verification methods. This should allow e.g. tear gases to be covered by the convention, provided that their use for non-hostile purposes such as law-enforcement internally in a country, was allowed, as was pointed out by one delegation.

- A discussion arose on whether all protective activities and equipment had to be accepted for permitted purposes. Some ideas on protective measures as specially useful for offensive purposes were put forward. There was no objection that further investigation should be done with respect to whether the protective measures should in any way be limited or specified under the convention when defining permitted purposes.

Revision by the Co-ordinator of the Contact Group on definitions of paragraphs 6 and 7 of his report in CD/334, Annex pages 4-6

Paragraph 6 (b)

Remove the first comment.

Add after the second comment a new one: "The field utility of chemicals referred to in 6 (b) should also be considered".

Add after the last comment a new one: "It was pointed out that any use of herbicides was already prohibited in war by the Geneva protocol and the Convention against environmental warfare, why a reference to these conventions might be sufficient".

Paragraph 6 (e)

Add a first new comment: "The general purpose criterion should expressly be related to among the criteria for superlethal toxic, other lethal and other harmful chemicals".

Add a new third comment: "- Some delegations suggested to include also very toxic and incapacitating, but not lethal, compounds into the same class of supertoxic lethal chemicals. This could be done by setting the same toxicity limit for these types of compounds as for the supertoxic substance by relating to the 'effective' toxicity, as measured by a scientifically sound method. Under certain circumstances tear gases could be classified in this way."

Remove in the third comment, third line: "and tear gases".

Paragraph 7 (b)

Add: "Comment: Some questioned whether all protective activities and equipment had to be accepted for permitted purposes".

C. Report of the Co-ordinator of the Contact Group on Destruction, Diversion, Dismantling and Conversion

The Contact Group on Element V held three meetings. The Group reviewed the report presented by its Co-ordinator at the end of the 1982 Session, and which appears as an annex to document CD/334.

In the course of the review, the Group attempted to determine whether there had been changes in positions as recorded in that report, and also endeavoured to refine and clarify concepts and formulations relevant to Element V.

As a result of the discussions in the Contact Group and individual consultations held by the Co-ordinator, the latter prepared a revised version of his previous report, which was considered by the Contact Group to reflect the work undertaken in its 1983 meetings. The revised report of the Co-ordinator appears below.

A - Agreed subelements which apply both to destruction of stocks and to destruction of facilities and which could be incorporated into a separate Article in the Convention:

(a) obligation to utilize safe methods of destruction that will avoid harm to the environment and to populations;

(b) provision on international co-operation to facilitate implementation of the Convention regarding destruction of stocks and facilities.\*

B - DESTRUCTION OF STOCKS

I - ARTICLE - Agreed subelements to be included:

(a) general obligation to destroy all existing stocks of chemical weapons;\*\*

(b) possibility of diversion of stocks of chemicals for permitted\*\*\* purposes, subject to conditions and circumstances set forth in the Annex;

(c) provision on the possibility of transfer of chemical weapons to another State Party for the purpose of destruction;\*\*\*\*

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\* / It was suggested that the Element on the functions of the Consultative Committee contain adequate mention of such co-operation.

\*\* / Suggested addition: "This includes all items defined as 'chemical weapons', including all types of precursors". If under the Element "Definitions" all precursors fall within the definition of chemical weapons, this addition would render unnecessary the proposed subelement (a) for the Article.

\*\*\* / It was noted that the term "permitted" needs to be further clarified and that a suitable definition must be found.

\*\*\*\* / It was suggested that provision be made for the possibility of transfer of old stocks, whose existence on the territory of a Party is not known at the time of the entry into force of the Convention, to another State Party for destruction, as well as for the possibility of on-site destruction of such old stocks (see Element IV).

(d) obligation to utilize methods of destruction which exclude the possibility of re-utilization of final products for the purposes of chemical weapons, under adequate verification;

(e) indication of the over-all timing of the process of destruction, to be counted from the time the Convention enters into force for each State Party (suggestion: 10 years):

- time of start of actual destruction (alternatives):

(1) not later than six months after the Convention enters into force for each State Party;

(ii) not later than two years after the Convention enters into force for each State Party.

Other subelements proposed by some delegations:

(a) obligation to destroy precursors that may be used for binary weapons; <sup>\*\*</sup>

(b) placement of all stocks under international supervision at the time the Convention enters into force for each State Party;

(c) obligation to utilize methods of destruction that will permit adequate verification.

II - ANNEX - Agreed subelements to be included:

(a) conditions and circumstances for the diversion of stocks for permitted <sup>\*\*</sup> purposes (to be further elaborated); <sup>\*\*</sup>

(b) procedures and operations to be accomplished during the over-all period of destruction:

(i) initial stage (from the time the Convention enters into force for each State Party to the time of start of actual destruction):

- submission of plans for destruction of stocks; such plans should include:

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<sup>\*\*</sup>/ See foot-note on page 1 under (.\*).

<sup>\*\*</sup>/ It was noted that the term "permitted" needs to be further clarified and that a suitable definition must be found.

<sup>\*\*</sup>/ Suggested conditions and circumstances:

(a) list of agents the diversion of which would be permitted;

(b) international supervision of diversion;

(c) diversion to be carried out in an irreversible manner, so as to prevent the re-utilization of component agents as weapons.

- + quantities and types of chemical weapons<sup>\*/</sup> to be destroyed;
  - + time scheduled for the process of destruction;
  - + description, in general terms, of method(s) to be employed for destruction;
  - + indication of place(s) of facility(ies) used for destruction.
- (ii) destruction stage (from the start of actual destruction to the end of the over-all period of destruction):
- + (to be seen in connection with the declarations required from Parties relating to destruction of stocks).

Other subelements proposed by some delegations:

(a) provisions for ensuring adequate balance during the destruction stage so as to avoid the acquisition of military advantage by one State Party over another (p.ex., agreed rates of destruction).

C - DESTRUCTION OF FACILITIES

I - ARTICLE - Agreed subelements to be included:

- (a) general obligation to destroy and dismantle facilities<sup>\*\*/</sup> and not to construct new ones;
- (b) obligation to close down such facilities at the time the Convention enters into force for each State Party, and to cease production of chemical weapons at that time;
- (c) provision for the possibility of temporary conversion of production facilities into facilities for the purpose of destruction of stocks;
- (d) obligation not to reconvert such converted facilities, and to destroy them as soon as they are no longer needed for the purpose of destruction of stocks;
- (e) indication of over-all maximum duration of the process of destruction, to be counted from the time the Convention enters into force for each State Party (suggestion: 10 years):
- time of start of actual destruction (alternative suggestions):
    - (i) six months after Convention enters into force for each Party;
    - (ii) not later than eight years after the Convention enters into force for each Party.

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<sup>\*/</sup> It was suggested that the contents of the chemical weapons be specified by name.

<sup>\*\*/</sup> The term "facility" should be understood as defined in Element II. The following definition was suggested by some delegations: "Facilities and/or equipment designed or used for the production of any chemical which is primarily useful for chemical weapons purposes, or for filling chemical munitions".

Other subelements proposed by some delegations:

(a) provision for the possibility of re-utilization in peaceful industry of certain types and categories of equipment, according to specification to be set forth in the Annex.

(b) obligation to utilize methods of destruction that permit adequate verification.

II - ANNEX - Agreed subelements to be included:

(a) elaboration of procedures and operations to be accomplished during the over-all period of destruction:

(i) initial stage (from the time the Convention enters into force for each State Party to the time of start of the actual destruction):

- immediate cessation of production and closing down of facility(ies);
- submission of detailed plans for destruction of facilities; such plans should include:
  - + location of facility(ies);
  - + description of method(s) to be employed for destruction, which should ensure that those elements which have a decisive role in the final process of production are destroyed as soon as possible;
  - + indication of facility to be temporarily converted for destruction of stocks;
  - + plans for the destruction of such converted facility.

(ii) destruction stage (from the start of actual destruction to the end of the over-all period):

- to be seen in connection with the declarations required from Parties regarding the destruction of facilities.

Other subelements proposed by some delegations:

(a) specification of the types and categories of equipment that could be re-used in peaceful industry;

(b) provisions for ensuring adequate balance during the destruction stage, so as to avoid the acquisition of military advantage by one State Party over another (p.ex., agreed rates of destruction).

D - QUESTIONS BEARING ON ELEMENT V THAT SHOULD BE DEALT WITH ELSEWHERE IN THE CONVENTION

(a) issues pertaining to "Definitions";

- definition of weapons and agents prohibited under the Convention and which should thus be destroyed (see Section B on "Destruction of Stocks" and note to agreed subelement (a) of the Article and to the proposed subelement (a));
- definition of the terms "non-hostile" and "permitted" purposes;
- definition of facilities and/or equipment for the production of chemical weapons which should thus be destroyed (see Section C on "Destruction of Facilities" and note to agreed subelement (a) of the Article);
- definition of the concept of destruction/dismantling, both with regard to stocks and with regard to facilities.

(b) issues pertaining to "Declarations":

- specification of all declarations to be required from States Parties relating to the process of destruction/dismantling, both of stocks and facilities, including periodical declarations (suggestion: annual declarations during the destruction stage);
- specification of the authority to which plans for destruction of stocks and facilities should be submitted (suggestion: the Consultative Committee);

(c) issues pertaining to "Verification":

- adequate procedures for the verification of compliance with the obligations set forth in Element V.

(d) issues pertaining to the prohibition of transfer of chemical weapons:

- exception to the obligation not to transfer chemical weapons, so as to permit the transfer of stocks for destruction purposes as set forth in the Article on stocks (see Section B, "Destruction of Stocks", subelement (c)) of the Article.

D. Report of the Co-ordinator of the Contact Group on National Implementation Measures

1. Article on national measures

Working hypothesis:

Each State Party should take any measures it considers necessary in accordance with its constitutional processes to implement the Convention, and in particular to prohibit and prevent any activity in violation of the Convention anywhere under its jurisdiction or control.

Each State Party would also inform the Consultative Committee of what legislative and administrative measures it had taken with respect to the implementation of the Convention.

2. Possible article on national body

Options:

- Each State Party would designate a central authority and point of contact having responsibility with regard to overseeing the implementation of the Convention and to co-operating with the Consultative Committee and the central authorities of other States Parties. Guidelines concerning the functions of this central authority could be set out in Annex . . .
- Each State Party would identify its point of contact being responsible for the co-operation with the Consultative Committee.
- No special reference to national body in an article of the Convention, but refer to it and determine its role and functions in an Annex to the Convention.
- No special reference to national body, since this question could be regarded as covered by the article on national measures.

3. Possible Annex containing guidelines concerning the functions of the national body

Options:

- The Annex should only serve illustrative purposes in order to assist interested States Parties in setting up, if necessary, and employing their respective national implementation systems. The Annex would be of no obligatory nature.
- A detailed list of the functions of the national system would amount to an infringement into national legislation; therefore such an Annex should not be established.

According to the first view, such an Annex could include the following provisions:

(a) The central authority to be designated by each State Party under Article ... should be organized and employed by each State Party in accordance with its own legislation.

(b) The central authority will oversee the implementation of the obligations concerning

- prohibition of development, production, other acquisition, stockpiling, retention and transfer of chemical weapons;
- destruction of stocks of chemical weapons;
- destruction or dismantling of means of production of chemical weapons;
- temporary conversion of means of production of chemical weapons for the purpose of destroying stocks of such weapons;
- super-toxic lethal chemicals for non-hostile military purposes;

(This list would be specified in accordance with the final agreement on the scope of prohibition.).

(c) To fulfil these tasks the functions of the central authority may include the following:

- to get the necessary information from the relevant organs, agencies and enterprises to investigate the actual state of affairs concerning compliance with the Convention;
- to examine reports on development activities as well as the productive and commercial activities of enterprises of the chemical industry and related fields, including productive commercial documentations of the enterprises of industrial firms engaged in the manufacture of chemical and other products which could be related to the scope of the Convention;
- to visit enterprises producing super-toxic lethal chemicals, harmful chemicals, and precursors, which fall under the scope of the Convention;
- to visit enterprises being dismantled or already dismantled, or converted to the production of the above-mentioned chemicals for permitted purposes;
- to sample probes of waste gases, waste water and soil;
- to install in the above-mentioned enterprises sensing devices and make the necessary measurements;
- to get the financial means necessary for the implementation of its functions;
- to submit to the government concerned reports on its activities which would be publicized;
- to co-ordinate the activities of other national bodies with regard to the implementation of the Convention and the co-operation with the Consultative Committee.

4. Co-operation between the central authority ("national level", "State Parties" and the Consultative Committee

(a) The Convention should contain provisions with regard to the co-operation/relationship between the central authority ("national level", "States Parties") and the Consultative Committee. The concrete formulation of these provisions and the determination of their place in the Convention (in article on national measures, in the above-mentioned Annex or in the context of the provisions on the Consultative Committee) would be a task for a further stage of the work on the Convention.

(b) These provisions may include the following:

- to provide the Consultative Committee with all data necessary to the execution of the task of the Committee with respect to implementing the Convention, including ~~verification~~ of compliance with the Convention;
- to extend in case of international inspections all assistance requested including technical assistance and the provision of data;
- to have access to a selection of inspection personnel both technical and non-technical;
- to be prepared to maintain documentation of the type required to satisfy international verification requirements and, if necessary, to make it available to the Consultative Committee;
- to co-operate in providing expertise to the Consultative Committee;
- to co-operate with the central authorities of other States Parties and with corresponding international organizations concerning issues connected with the implementation of the Convention.

E. Report of the Co-ordinator of the Contact Group on National Technical Means of Verification

Options:

- Article on NTM may include provisions with regard to the use of NTM in a manner consistent with international law, assistance to other parties, including the provision of relevant information, and non-concealment measures.
- If these provisions would not be far-reaching enough, some delegations deemed a general reference to the possibility to use NTM and to assist other States Parties sufficiently.

In accordance with both views the following two alternatives are proposed and could be taken into account in drafting the provisions on the verification system as a whole.

First alternative:

1. Each State Party to this Convention may use national technical means of verification at its disposal for the purpose of monitoring compliance with the provisions of the Convention in a manner consistent with generally recognized principles of international law.

2. Monitoring in accordance with paragraph 1 of this Element may be carried out by each State Party to this Convention by the employment of its own national technical means of verification or with full or partial assistance on the part of any other State Party.

3. Any State Party which possesses national technical means of verification may, where necessary, place at the disposal of other Parties and/or the Consultative Committee information which it has obtained through those means and which is important for the purposes of the Convention.

Such information would be confidential to the State Party which carried out monitoring, unless or until evidence was sufficient to suggest non-compliance by another State Party.

4. Each State Party to this Convention should not impede, including through the use of deliberate concealment measures, the national technical means of verification of other States Parties operating in accordance with paragraph 1 of this Element.

Second alternative:

Verification of compliance with this Convention may be undertaken by any State Party using its own means, or with the full or partial assistance of any other State Party.

F. Report of the Co-ordinator of the Contact Group on Consultation and Co-operation

I. It was generally agreed that the Convention should include a provision regarding normal consultations and co-operation according to the following lines:

(a) Commitment by States Parties to consult and co-operate.

(b) Consultations and co-operation may be undertaken:

directly between two or more parties;

through appropriate international procedures including the services of appropriate international organizations and of the Consultative Committee.

It was generally agreed to include a specific reference to the Consultative Committee underscoring its special role.

It was suggested that certain international organizations (e.g. WHO) should be clearly specified in the Convention.

(c) Substance of consultations and co-operation: any matter in relation to the objectives of, or in application of, the provisions of the Convention.

For further consideration:

Alternatives:

- Specific reference to the United Nations General Assembly and/or Security Council.
- General reference to the United Nations Charter.

II. Fact-finding procedures concerning alleged ambiguities in or violations of the compliance with the Convention.

(a) General formulation encouraging States Parties to hold bilateral contacts in order to clarify ambiguities or settle disputes at the lowest possible level.

(b) Right for every State Party (challenging or challenged) to request the Consultative Committee to carry out fact-finding procedures, including on-site inspections.

(c) Such request must be substantiated.

(d) Obligation to co-operate in fact-finding procedures carried out by the Consultative Committee.

(e) Obligation of the Consultative Committee to inform States Parties about the results of its procedures. Right of the States Parties to be informed about the procedures carried out by the Consultative Committee.

(f) General reference to the right of every State Party to resort to the mechanisms provided with by the Charter of the United Nations.

For further consideration:

- Timeliness of the fact-finding procedure
- Schema (sequences) of the whole process of the fact-finding procedure.

It was suggested:

1. Desirability of bilateral contacts as a first step
2. Substantiated request addressed to the Consultative Committee by the challenging State Party
3. Immediate or automatic transmission of the request to the pertinent suborgan of the Consultative Committee (fact-finding panel)
4. Assessment of the request on scientific basis by the appropriate suborgan of the Consultative Committee (fact-finding panel) with the participation of representatives of the challenging and challenged States.
5. Decision by the appropriate suborgan of the Consultative Committee on the merits of the request and on the appropriate activity to be carried out for a fact-finding procedure concerning alleged ambiguities in or violations of the compliance with the Convention.

- Right of every State Party to refuse to an on-site inspection providing appropriate scientific explanations.

Alternatives:

Obligation of all States Parties to accept an on-site inspection requested by the Consultative Committee.

Right of a State Party to reject an on-site inspection only if the overwhelming majority of the members of the Consultative Committee or its appropriate suborgan consider the request in question as totally unfounded.

- Action the Consultative Committee might take after a refusal by a State Party to an on-site inspection:

Alternatives:

- request further information
- request a reconsideration of the decision
- reiterate the request for an on-site inspection which in this case should be mandatory for the challenged State
- Provision requesting States Parties to make the necessary domestic arrangements to designate a body which should take part in international on-site inspections on behalf of the State Party including in its own territory.
- Action a State Party can take in case of a violation of the Convention which may constitute a threat to peace or a breach of peace:

Alternatives:

- subsumed in the general reference to the right of every State Party to resort to the mechanisms provided with by the Charter of the United Nations
- specific reference to the Security Council and/or General Assembly
- Provision of assistance to a State Party in case of breach of the Convention:
  - subsumed in the general reference to the United Nations Charter
  - or formulated in specific terms
- Question of falsifying the actual state of affairs with regard to compliance with the Convention by other States Parties.

G. Report of the Co-ordinator of the Contact Group on the Preamble and Final Clauses of the future Chemical Weapons Convention

PREAMBLE

Concepts

- (i) Bringing about general and complete disarmament
- (ii) CW ban as a necessary disarmament step
- (iii) Prohibition on CW use (repugnant to the conscience of mankind)
- (iv) Strengthening peaceful co-operation in scientific fields
- (v) BW Convention undertaking on CW negotiations
- (vi) Recognizing significance of 1925 Protocol and BW Convention
- (vii) Charter of the United Nations
- (viii) CW convention important for social and economic development

Options

- chemistry for the benefit of mankind
- minimization of economic damage and unnecessary interference with peaceful chemical industry
- principle of non-diminished security (at lower levels of armaments)

ELEMENT VII - RELATIONSHIP WITH OTHER TREATIES

Concepts

No limiting or detracting from the obligations assumed under 1925 Protocol or any other international treaties.

Options

- specific reference to obligations under Biological Weapons Convention
- specific reference to obligations under MEMOD
- possibility of linking CW convention to 1925 Protocol.

ELEMENT VIII - INTERNATIONAL CO-OPERATION

Concepts

- (i) Avoidance of hampering international co-operation in peaceful and protective chemical activities;
- (ii) Undertaking to facilitate, promote and participate in exchange of materials and information
- (iii) Undertaking to allocate any savings as a result of CW Convention

Options

- facilitate international co-operation in peaceful chemical activities
- participate in fullest possible exchange (including co-operation on training and equipping with protective measures)
- undertaking to assist other Parties on request.

ELEMENT XIV - AMENDMENTS

Concepts

- (i) Amendments proposed by any Party; submitted to Depositary; circulated to other Parties;
- (ii) Entry into force of amendments for each Party accepting amendments upon acceptance by majority of Parties; thereafter for each remaining Party on date of acceptance by it.

Options

- Amendments considered at Review Conference.
- Party after entry into force, failing expression of a different intention, considered as party to treaty as amended.

ELEMENT XV - REVIEW CONFERENCE

Concepts

- (i) Review after five years if majority of Parties agree
- (ii) Five year intervals.

ELEMENT XVI - DURATION AND WITHDRAWALS

Concepts

- (i) Unlimited duration
- (ii) Right of withdrawal; three months notice to depositary; statement of extraordinary events jeopardizing supreme interests;
- (iii) Notification to Security Council.

ELEMENT XVII - SIGNATURE, RATIFICATION, ACCESSION

Concepts

- (i) Open to all States; accession at any time
- (ii) Subject to ratification; deposited with United Nations Secretary-General
- (iii) Entry into force with specified number of ratifications
- (iv) Entry into force for late accession
- (v) Depositary to notify all Parties of each signature, ratification or accession
- (vi) Registered in accordance with United Nations Charter
- (vii) Annexes of convention integral.

Options

- twenty ratifications for entry into force
- entry into force requires ratification by all permanent members of Security Council

ELEMENT XVIII - DISTRIBUTION OF THE CONVENTION

Texts, in all United Nations languages, distributed by Depositary.

SECTION B: VARIOUS SPECIFIC PROPOSALS

PREAMBLE

(i) Disarmament

Reaffirming their adherence to the objectives of general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction;

(ii) CW

Convinced that the prohibition of the development, production and stockpiling of chemical weapons and their destruction represent a necessary step towards the achievement of general and complete disarmament under effective international control;

(iii) Use

Determined, for the sake of all mankind to exclude completely the possibility of chemical agents being used as weapons; convinced that such use would be repugnant to the conscience of mankind and that no effort should be spared to minimize this risk;

(iv) Peaceful co-operation

Considering that peaceful co-operation among States should strengthen international co-operation in scientific fields, especially in that of chemistry;

Alternative Considering that the achievements in the field of chemistry should be used exclusively for the benefit of mankind.

(v) BW Convention

In conformity with the undertaking contained in the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of the development, production and stockpiling of chemical weapons and on their destruction;

(vi) 1925 Protocol

Recognizing the important significance of the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925 and also of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, in force since 26 March 1975, and calling upon all States to comply strictly with the said agreements;

(vii) United Nations Charter

Desiring also to contribute to the realization of the purposes and principles of the Charter of the United Nations;

(viii) Social and Economic Development

Recognizing the important contribution that the Convention can make through its implementation to the social and economic development of States, especially developing countries.

Option

Guided by the principle of non-diminished security of any State or group of States.

ELEMENT VII - RELATIONSHIP WITH OTHER TREATIES

Draft Element

Nothing in this Convention should be interpreted as in any way limiting or detracting from the obligations assumed by States Parties to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, or any other international treaty or any existing rules of international law governing armed conflicts.

Reference to BW

Nothing in this Convention should be interpreted as in any way limiting or detracting from the obligations assumed by States Parties to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, or under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, opened for signature on 10 August 1972, or any other international treaty or any existing rules of international law governing armed conflicts.

Reference to ENMOD

Nothing in this Convention should be interpreted as in any way limiting or detracting from the obligations assumed by States Parties to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, or under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, opened for signature on 10 April 1972, and the Convention on Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD), or any other international treaty or any existing rules of international law governing armed conflicts.

ELEMENT VIII - INTERNATIONAL CO-OPERATION

Draft Element

- (1) This Convention should be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international co-operation in the field of peaceful and protective chemical activities, including the international exchange of chemicals and equipment for production, processing or use of chemical agents for peaceful and protective purposes in accordance with the provisions of the Convention.
- (2) Each State Party to this Convention should undertake to facilitate, promote and participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of chemicals for peaceful and protective purposes consonant with the aims of this Convention.
- (3) Each State Party to this Convention should undertake to allocate a substantial part of possible savings in military expenditures as a result of disarmament measures agreed upon in this Convention to economic and social development, particularly of the developing countries.

Fullest possible exchange

Each State Party to this Convention should undertake to facilitate, promote and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of chemicals for peaceful purposes consonant with the aims of this Convention. Where appropriate such exchange should extend to co-operation or protective measures.

Assistance to Parties

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

ELEMENT XIV - AMENDMENTS

Draft Element

- (1) Any State Party to this Convention may propose amendments to the Convention. The text of any proposed amendment shall be submitted to the Depositary, who shall promptly circulate it to all States Parties.
- (2) An amendment shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining States Party on the date of deposit of its instrument of acceptance.

ELEMENT XV - REVIEW CONFERENCE

Draft Element

- (1) Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary, a conference of States Parties to the Convention should be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the Convention are being realized. Such review should take into account any new scientific and technological development relevant to the Convention.
- (2) Further review conferences should be held at intervals of five years thereafter, and at other times if requested by a majority of the States Parties to this Convention.

ELEMENT XVI - DURATION AND WITHDRAWALS

Draft Element

- (1) This Convention should be of unlimited duration.
- (2) Each State Party to this Convention should in exercising its national sovereignty have the right to withdraw from the Convention, if it decides that extraordinary events related to the subject matter of the Convention, have jeopardized its supreme interests. It should give notice of such withdrawal to the Depositary three months in advance. Such notice should include a statement of the extraordinary events it regards as having jeopardized its supreme interests.
- (3) The Depositary on its part should immediately inform the Security Council of the United Nations of the submission of a notice of withdrawal from a State Party to the Convention.

ELEMENT XVII - SIGNATURE, RATIFICATION, ACCESSION

Draft Element

- (1) This Convention should be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph 3 of this Element should accede to it at any time.
- (2) This Convention should be subject to ratification by signatory States. Instruments of ratification or accession should be deposited with the Secretary-General of the United Nations.
- (3) This Convention should enter into force upon the deposit of instruments of ratification by ... Governments, in accordance with paragraph 2 of this Element.

- (4) For those States whose instrument of ratification or accession are deposited after the entry into force of this Convention, it should enter into force on the date of the deposit of their instruments of ratification or accession.
- (5) The Depositary should promptly inform all signatory States and States Parties of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of the entry into force of this Convention and of any amendments thereto, as well as of the receipt of other notices.
- (6) This Convention should be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.
- (7) Annexes of the Convention should be considered an integral part of this Convention.

#### Twenty Ratifications

This Convention should enter into force upon the deposit of instruments of ratification by 20 Governments, in accordance with paragraph 2 of this Element.

#### All Security Council Members

This Convention shall enter into force upon the deposit of instruments of ratification by ... Governments, including the Governments of the States permanent members of the United Nations Security Council.

#### ELEMENT XVIII - DISTRIBUTION OF THE CONVENTION

##### Draft Element

This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, should be deposited with the Secretary-General of the United Nations, who should send duly certified copies thereof to the Governments of States Members of the United Nations and its specialized agencies.