

SwedenThe Prohibition of Military Preparations for Use of Chemical Weapons

Since 1971 Sweden has argued that a prohibition to prepare for the use of chemical weapons would be an essential element of a convention banning chemical weapons. Such preparations were initially referred to as measures aimed at acquiring or retaining a chemical warfare capability, later expressed as planning organization and training for use of chemical weapons. Protective activities alone would not be covered by a prohibition on preparations for use, unless specifically identified and agreed upon.

Reasons for prohibition

The Swedish delegation has presented concepts and suggested treaty language on the subject, inter alia, in the following documents: CD/97, 24 April 1980: Working Paper on the Prohibition of Chemical Warfare Capability, CD/142, 10 February 1981: Prohibition of retention or acquisition of a chemical warfare capability enabling use of chemical weapons (with four annexes), and in the Conference Room Paper CD/CW/WP/CRP 29, 15 March 1982: Abolition and non-acquisition of a chemical warfare capability after destruction of chemical weapons. The documents mentioned and various Swedish statements give a comprehensive account of these ideas. The main aspects are repeated below.

According to our present assessment a chemical weapons convention will most likely contain a prohibition of use of chemical weapons. Thus the Swedish delegation finds it logical that a prohibition of preparation for use also be included in the convention. A prohibition of preparation would support the use ban and could also serve to build confidence in this connection.

A prohibition would cover such activities as planning for use as well as organization and training of troops for the purpose of using chemical weapons. Preparations for acquiring capacity for use of chemical weapons are more time consuming than for instance the production and deployment of such weapons. Without restrictions with regard to preparations those countries, which now have chemical weapons, would have little difficulty in maintaining chemical warfare capability on a rather short notice, not only as long as their stocks of chemical weapons were not completely destroyed, but also for a considerable time thereafter.

In the absence of a prohibition of preparations for use a party to a chemical weapons convention could, after a withdrawal from the convention, fastly acquire a full chemical warfare capability, if adequate preparation had been done in advance.

It must probably be accepted that the parties which now have chemical weapons would reserve their capability of retaliation under a part of the 10-year destruction period that seems to be needed under a convention. However, after some time, such a capacity could be considered neither indispensable nor acceptable.

If a prohibition of preparations for use were not included in a convention, it would be difficult to raise legal objections against a party making such preparations. The compliance procedure of the convention could probably not be called upon for the purpose of clarifying matters in this respect. The convention would be strengthened if an explicit ban on preparations for use of chemical weapons were included, not least due to the confidence building character of such a measure.

The Swedish delegation has noted with appreciation that its views have won increased understanding and support during the years. On the other hand, our suggestions have also been met with objections even if nobody has actually denied the importance of our suggestions.

Objections against the prohibition

One objection is that the suggested prohibition would not be needed once the weapons had been destroyed. However, such a prohibition would nevertheless be important because of the fact that the main bottleneck in obtaining a chemical warfare capability depends on the difficulty in the preparation and training of the armed forces in the use of chemical weapons rather than in the acquisition of the chemical weapons themselves.

It has also been said that a prohibition on preparations to use chemical weapons would not be possible to verify, and accordingly could not be included in the scope. However, it is not the question of verification in its more limited sense which is of primary importance, but the possibility to invoke the whole clarification and complaints procedure under the convention. This would not be possible, if the issue was not covered in the scope. With regard to the confidence building character of the suggested prohibition the early links of the complaints procedure would be the most important. Verification by challenge should occur only as a last resort, when reasons therefor occur to any party.

Other arguments against the proposal have dwelt upon the difficulties to decide more precisely which preparations should be prohibited. This is true to some extent. When the Swedish delegation made its suggestions in CRP.29 it seemed probable that a ban on use of chemical weapons would not be included in the convention. If this should be the case there would perhaps be a need of specifying which preparations should be prohibited. Today however the delegation finds it highly probable that a ban on use will be included. As mentioned above, it would be logical to include also a ban on preparations which, if observed, would strengthen the regime of the convention and generally serve as a confidence building measure. The actual prohibition could be easily expressed in the scope, e.g. by "prohibiting preparations to use chemical weapons".

Proposal

In order to have our views, as presented above, on the prohibition of preparations for use adequately covered, the Swedish delegation proposes that the formulations presented in the annex to this Working Paper be added to CD/416 or the appropriate ensuing report on the work of the Working Group on Chemical Weapons.

Annex

Additions to CD/416, Annex I, suggested by the delegation of Sweden

To I A 2 a new (e) (existing (e) turns into (f))

An undertaking not to engage in any military preparations to use chemical weapons.

To III a new A No military preparations for use

The parties to the convention, undertaking not to engage in military preparations for the prohibited use of chemical weapons, agree

(1) that medical and physical protection of military forces and civilian populations against the toxic effects of an adversary's use of chemical weapons shall not be covered by the undertaking in Article .

(2) to declare, not later than () year(s) after the entry into force of the convention, that such preparations have ceased. Military orders shall be issued to ensure cessation of such preparations and halt their continuation. These orders shall immediately be communicated to the Consultative Committee. A party, having declared non-possession of chemical weapons and not being involved in preparations for use, undertakes to declare that such preparations do not exist.