

access to the facility in question; and collection and analysis of air and water samples around the facility for traces of relevant chemicals. The Soviet Union expressed the view that if it proved impossible for the challenging and the challenged parties to agree on alternative measures, all facts should be submitted to an international authority which would evaluate the case and decide by a two-thirds majority whether a breach had occurred.¹⁷ The United States, however, voiced doubts as to whether the measures suggested by the Soviet Union could be sufficient to determine the contents of a suspect munition bunker.¹⁸ It insisted that if an alternative to on-site inspection could not be agreed upon, the mandatory right of access to any location, within the shortest possible time, should remain. Denial of entry to a given facility would — in the US opinion — result in an assumption that that facility contained forbidden material.¹⁹ The Netherlands proposed that in such a situation the challenged state might be declared as violating the convention.²⁰ Thus, the positions are still apart on what would happen if alternative measures proposed by the challenged state did not satisfy the challenger.

Another unresolved problem is how to prevent the abuse of the right to on-site inspection through frivolous challenges. Each request must, of course, specify which clause of the convention is alleged to have been violated, the nature of the presumed violation, and when and where it is suggested to have occurred. But no screening or 'filtering' mechanism is to be set up by the convention to decide whether a particular challenge is justified and thus whether the inspection should be allowed to be carried out. One way of dealing with the danger of abuse could be, as proposed by the Soviet Union, to provide for states' liability for losses suffered by the challenged state as a result of an unjustified on-challenge inspection.²¹ Similarly, Egypt suggested that compensation be envisaged for damages resulting from an abuse of inspection.²² It is worth noting, by way of analogy, that according to the 1967 Treaty of Tlatelolco prohibiting nuclear weapons in Latin America the costs of a special inspection must, as a rule, be borne by the requesting state (Article 16.2).

Non-use of chemical weapons. Since the 1925 Geneva Protocol banning the use of chemical weapons does not provide for verification of compliance, the chemical weapons convention, which is to re-affirm the ban on use, may embody procedures for checking possible allegations. Specific proposals to this end have been made by Norway and Canada.²³ The working papers submitted to the CD by these two countries deal with the identification and survey of the allegedly contaminated area, the collection of samples of soil, sand, water, vegetation and snow, as well as the preparation and transportation of the samples to

specially designated laboratories for analysis. These papers supplement the *Handbook for the Investigation of Allegations of the Use of Chemical and Biological Weapons*, presented in the CD by Canada a year earlier.²⁴ The modalities now available to the UN Secretary-General for the investigation of reports on the alleged use of chemical weapons may have to be reviewed upon entry into force of the chemical weapons convention.

Peaceful uses. The usual proviso, patterned after other arms control treaties, such as the BW Convention or the Non-Proliferation Treaty (NPT), that a ban on military uses of the pertinent items should not hinder civilian production, will most certainly be part of the chemical weapons convention.

There will, no doubt, be a pledge to promote international cooperation and assistance in the peaceful application of chemical science and technology. It is difficult, however, to predict to what extent such a pledge would be considered binding for the parties: commercial deals, in whatever commodity, are subject more to economic rules than to political considerations. Nevertheless, the chances to intensify the development of chemical research and industrial production worldwide are likely to increase upon the conclusion of the chemical weapons convention because the existing restrictions on trade in chemical compounds and on transfer of technology, which had been introduced for security reasons, would be removed for the parties to the convention. On the other hand, states remaining outside the convention might encounter added difficulties in the development of their chemical industry because of the inevitable suspicion that they either possessed chemical weapons or were planning to manufacture them.

Entry into force. The United Kingdom has proposed that the chemical weapons convention should require at least 60 ratifications, including those by states that had declared that they possessed chemical weapons.²⁵ The Soviet Union would be satisfied with some 30 to 40 ratifications.²⁶ This would be comparable to the NPT, which entered into force after the deposit of 40 instruments of ratification plus those of the three depositaries — the UK, the USA and the USSR — whereas the BW Convention required only 22 ratifications, including those of the three depositaries. The United States sees the need for a 'global' ban, but has not explained what number of ratifications would satisfy this requirement.²⁷ In any event, both superpowers consider it necessary that the convention encompass all 'chemical weapons-capable' states.²⁸

To be truly effective, arms control agreements must have the widest possible adherence. However, if the requirement for the entry into force of the chemical weapons convention were placed too high, many years