

countries would not like to see them covered by the definition of chemical weapons.

Similarly, the dual-purpose status of herbicides raises a problem for the planned chemical weapons convention. Apart from their peaceful applications in forestry, agriculture, etc., herbicides were extensively used in the Vietnam War after having been first employed in Malaya during the 1950s. One formula proposed is that the parties should undertake not to use herbicides 'as a method of warfare,' which would not preclude other uses. However, such a non-use obligation may have implications for the scope of the 1925 Geneva Protocol, which is also controversial. Indeed, in 1969 the UN General Assembly adopted a resolution declaring as contrary to the generally recognized rules of international law the use in international armed conflicts of chemical agents of warfare, having a direct toxic effect not only on humans and animals, but also on plants. However, many states abstained, and a few voted against such an extensive definition of chemical weapons.¹²

The need for a precise definition of chemical weapons may become less acute with the establishment of agreed schedules specifying chemicals subject to different verification regimes. However, such schedules cannot be definitive. They would have to be reviewed and, if necessary, amended. The first review could take place when states had declared their arsenals to the international authority, since it may then become apparent that certain toxic chemicals possessed by chemical weapon countries had not been taken into account in the course of negotiations. Subsequently, there might be a need for periodic updating.

A 'chemical weapon production facility' has not as yet been fully defined either. It is understood only that both the means of production of toxic chemicals, as well as the equipment for filling munitions with such chemicals, should be covered by the definition.

Another important term calling for elaboration is 'under jurisdiction and control of a state party.' It is used in connection with the undertaking to eliminate all chemical weapon stockpiles and production facilities, whatever their location. The Soviet Union asked for clarification of the status of the subsidiaries of transnational chemical corporations: which state would be responsible for ensuring that these corporations were observing the provisions of the convention, especially if the manufacturing operations were conducted in a country which was not party to it.¹³ In partial response to these apprehensions, the United States said that any corporation incorporated under US law, wherever its activities actually took place, would be prohibited from aiding a non-party in chemical weapon production.¹⁴ None the less, an agreed interpretation of the term in question would be

in order. The parties must be assured that no physical or legal person, including any operating outside the territory of a home country, would be in a position to circumvent the obligations undertaken by states.

Systematic inspection. International verification through systematic on-site inspection would apply to the declared stocks of chemical weapons and to the process of their destruction. It would also apply to the closure and elimination of chemical weapon production facilities, as well as to certain facilities of the civilian chemical industry to ensure that chemical weapons were not being produced there.

The number, intensity and duration of routine on-site inspections and detailed inspection procedures, as well as operation and maintenance of the monitoring devices, remain to be established. They would be specified in agreements on subsidiary arrangements which take account of the characteristics of each facility. These arrangements would be concluded by states parties with the international authority on the basis of a generally applicable model agreement. Whereas controls on the civil chemical industry are necessary in order to maintain confidence in the treaty regime, technical and commercial secrets of the industry should not be revealed through inspection. Appropriate procedures would have to be developed, drawing perhaps upon the experience of the International Atomic Energy Agency (IAEA) which meets such requirements in the application of nuclear safeguards.

An outline of a step-by-step approach to verifying the elimination of production facilities has been submitted by the United States,¹⁵ but negotiations would be needed to complete it with the necessary details. It is particularly essential to clarify which part of a given facility would be subject to a given elimination measure. International verification of temporary conversion of a chemical weapon production facility into a chemical weapon destruction facility has not yet been elaborated.

On-site inspection on challenge. As a rule, unimpeded access to suspected sites should be given to inspectors in order to enable them to clarify doubts about compliance. However, it is deemed permissible for the requested state to demonstrate compliance through alternative arrangements, as has been proposed by the United Kingdom.¹⁶ The need to resort to such arrangements might arise when, by disclosing sensitive data not connected with chemical weapons, the intrusiveness of on-site inspection could affect legitimate national interests.

The following examples of alternative arrangements were given by the Soviet Union: provision of pertinent information by the challenged party; visual inspection of the suspected facility without entering it; partial