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## CHEMICAL DISARMAMENT: FROM THE BAN ON USE TO A BAN ON POSSESSION

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The 40-nation Conference on Disarmament (CD), meeting in Geneva, has discussed for some years a treaty on chemical disarmament. There are still many problems that remain to be solved before a convention effectively prohibiting the possession of chemical weapons can be signed. However, the *number* of controversial political issues relating to the convention has diminished; the outstanding controversies are mostly of a technical nature.

Chemical disarmament is now the most promising item on the agenda of the multilateral arms control negotiations; the treaty is no longer a distant goal, but a real possibility.<sup>1</sup> The CD faces the task of transforming this possibility into reality. The task is urgent, because, in addition to the use of chemical weapons in the Iran/Iraq War, at least two great powers, the USA and France, have started or are about to start the production of new systems of such weapons, in spite of the ongoing negotiations for a total ban.

### THE GENEVA PROTOCOL

On 17 June 1925, a protocol was signed in Geneva prohibiting the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, as well as the use of bacteriological methods of warfare.

#### *Origins of the Protocol*

In the part dealing with gases, the Protocol ratified a prohibition previously declared in various international documents. These included the 1899 Hague Declar-

ation under which the contracting powers had agreed to abstain from the use of projectiles for the diffusion of asphyxiating or deleterious gases. The 1907 Hague Convention prohibited the use of poison or poisonous weapons. The need to restate the prohibition was prompted by the experience of World War I, during which the extensive use of poisonous gas had resulted in more than one million casualties.

#### *Weakness of the Protocol*

The Geneva Protocol is deficient in that it restricts its non-use obligation to the conditions of 'war' — instead of making it applicable to armed conflict in general — and to relations 'as between' the parties, instead of being valid *vis-a-vis* all states. However, according to a widely shared opinion, the Protocol is already part of customary international law. For many years the UN General Assembly has stressed, in a series of unanimous resolutions, the necessity for strict observance of the principles and objectives of the Protocol by *all* states.

Critics of the Geneva Protocol often refer to the fact that the ban on use is conditional: in joining this treaty, over 40 states, among them all the great powers, made a reservation that they would not be bound by its prohibitions towards any state whose armed forces did not respect it.

The absence of a mechanism to verify compliance is an important gap in the Geneva Protocol. But this gap has in essence been filled by the 1982 UN General Assembly resolution empowering the Secretary-General to investigate possible violations of the Geneva Protocol or the relevant rules of customary

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