

**Staffing** As of 20 February the Organization had exactly 400 members of staff. Of these, 362 are on fixed-term contracts (237 in the professional and higher categories and 125 in the general service category), from a total of 59 member states. The number of posts authorised by the 1998 programme and budget was 491 and recruitment is therefore still ongoing. Senior appointments during the period under review include: Mr Serguei Batsanov (Russian Federation) as Director, Special Projects; Mr Hassan Mashhadi (Iran) as Head, Emergency Assistance Branch; Mr Gonzalo Casas (Uruguay) as Head, Protocol Branch; Mr Nazir Hussain (Pakistan) as Head, Procurement and Support Services Branch; and Mr Mtshana Ncube (Zimbabwe) as the Deputy Legal Adviser.

The period under review also saw the selection of the first P-5 level inspection team leaders. The 13 names are: M Carling (UK); E Carter (Canada); J Carvalho (Brazil); R Coleman (USA); H Gu (China); G Guerra (Ecuador); I Henderson (South Africa); C Jorgensen (USA); J Mazur (Poland); M Meglecz (Hungary); H Naidu-Gade (India); D van Niekerk (South Africa); and E Yesodharan (India).

Inspector Training Group B is currently underway with 82 trainees drawn from 38 member states. The composition of the group is as follows: 32 CW/Munitions Specialists, 28 Chemical Production Technologists, 11 Chemical Production Logisticians, 1 Medical Specialist and 10 Paramedics. The opening ceremony for the inauguration of Training Group B took place at the National Defence College at Ypenburg, the Netherlands, on 16 January and was addressed by the Dutch Minister of Defence, Dr JJC Voorhoeve, and the Director-General. Module A, the basic course, conducted by the Training and Staff Development Branch with instructors from France, Germany, India, the Netherlands, Switzerland and the UK, was completed on 20 February. Module B, the specialist application courses, which is currently underway, is scheduled to finish on 17 April, with facilities offered by Germany, the Russian Federation, Switzerland and the UK.

The Secretariat currently has 126 inspectors and assistants available, and expects to have 135 by June this year. It is expected that 70 new inspectors will be hired

from Training Group B to begin work on 1 August. This will bring the total to 205 inspectors and assistants for 1998.

**New Building** It was announced during the eighth session of the Executive Council that the Organization's move to its new headquarters in The Hague would be delayed while last minute problems were dealt with between the developers and the OPCW Foundation. The Organization will now move over the period from 27 March to 6 April. After that period, all the divisions of the Organization will be based in the same building, with the exception of the OPCW Laboratory which is located in Rijswijk, a municipality bordering The Hague. The new address of the Organization will be: Johan de Wittlaan, 2517 JR, The Hague. The phone number will be: + 31 70 416 3300 and the fax number will be: + 31 70 416 3158.

**Future work** The Organization has before it a large number of issues which will have to be tackled during the next few months. Some of these can be generally termed as "institution-building" issues, being related to the Organization and its relations with states parties and other international organizations. Under this heading can be grouped the finalisation of the UN relationship agreement, the negotiation of bilateral agreements with each state party on privileges and immunities (Article VIII, paragraph 50), the completion of the Financial Rules and Staff Regulations and Rules in time for the third session of the CSP and the establishment of the Scientific Advisory Board, for example. Relating to the implementation of the Convention, there is the backlog of facility agreements to be cleared, the installation of the EDMS, the initiation of a review of implementing legislation submitted to the Secretariat and further consideration of the issue of the costs of verification before discussions on the 1999 budget begin. These issues are all additional to the routine work of processing declarations, conducting inspections and expanding the range of the Organization's international cooperation programmes.

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*This review was written by Daniel Feakes, the HSP researcher in The Hague*

## **Strengthening the Biological and Toxin Weapons Convention**

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A further three-week meeting, the ninth session, of the Ad Hoc Group to consider a legally binding instrument to strengthen the Biological and Toxin Weapons Convention (BWC) was held in Geneva from 5 to 23 January 1998. As at the eighth session, in September/October 1997, negotiations focussed on the rolling text of the Protocol.

Fifty-four states parties and 3 signatory states participated at the ninth session; 4 states parties fewer than in the previous session as 7 states (Bolivia, Ecuador, Ghana, Kenya, Panama, Peru, and Sri Lanka) did not participate

this time whilst 3 states (Democratic People's Republic of Korea, Singapore, and Slovenia) which had not participated in September/October 1997 did in January 1998.

There were 33 Working Papers {WP.233 to WP.265} presented in January 1998, some 4 less than in September/October 1997. As usual these were presented both by states parties (South Africa 6, United Kingdom 5, Russian Federation 5, Japan 2, Sweden 2, Portugal 1, Non-Aligned Movement [NAM] 1) and by the Friends of the Chair (11).

Good progress was made in the January meeting with serious negotiations addressing the language in the square brackets. The sense was gained that the addition of new material to the Protocol had slowed down and some sections have been streamlined and reduced in length — the current version is some 252 pages compared to 241 pages in the October 1997 version. Most of the new material at the January meeting was language prepared by the Friend of the Chair on Confidentiality which tabled some 8 Working Papers. In addition, the Protocol has as an attachment, WP. 262 “Investigations: Exclusion of All Natural Outbreaks of Disease”, which was presented by the NAM and other countries on the last day of the session, Friday 23 January 1998, too late to be incorporated into the new version of the Protocol. It was therefore attached to the Protocol and can be expected to be incorporated into the rolling text at a future session. As usual, a new version of the Protocol is attached to the procedural report of the January meeting {BWC/AD HOC GROUP/39}.

As in September, there is no language for two of the Articles of the Protocol: Article I — General Provisions and Article VIII — Confidence-Building Measures. The principal area in which language was developed in January was in Annex E on Confidentiality Provisions which has grown from 3 pages in October 1997 to 16 pages. In most of the other areas of text, there has been serious and deliberate consideration of the language.

Of the 30 meetings held, 8 were devoted to compliance measures, 4 to Article X measures, 5 to definitions of terms and objective criteria, 1 to legal issues, 7 to the investigations Annex, 1 to organization/implementational arrangements, 2 to confidentiality and 1 to national implementation and assistance. There was no change in the Friends of the Chair who were the same as in September.

The major contentious point of discussion in the January meeting was the selection of dates for meetings in 1998. The September/October 1997 final report stated that “The Ad Hoc Group agreed to have three sessions of three weeks and one session of two weeks in 1998. The three-week sessions will be held as follows: 5 January–23 January, 22 June–10 July and 28 September–16 October. As for the dates of the two-week session, the Ad Hoc Group agreed, without prejudice to the position of delegations on that issue, to take a decision by the end of the January 1998 session, whether the two-week session should be held between 23 March–3 April or between 30 November–11 December 1998.”

In January, the EU and the Western Group argued strongly for the two-week meeting to be held in March 1998 in order to maintain the momentum of the negotiations — it will be recalled that the EU position as stated at the Fourth Review Conference in November 1996 was that the negotiations of the protocol should be completed in 1998 and President Clinton had made a similar statement in his address to the United Nations General Assembly in September 1996. Other states parties at the January meeting were concerned with the possible clash of the March meeting with other meetings on topics such as human rights.

The outcome was a decision to have a one-week session from 9 to 13 March, a three-week session from 22 June to

10 July and a four-week session from 21 September to 16 October. The March meeting will address a limited range of issues: Measures to Promote Compliance (4 meetings), Investigations Annex (3–4 meetings) and Measures related to Article X (1–2 meetings).

### ***The Emerging Regime***

The likely regime to strengthen the BWC that is emerging from the negotiations in Geneva continues to be an integrated package of measures which are likely to comprise mandatory declarations together with on-site measures together with measures to strengthen the implementation of other Articles of the BWC — notably Article III, the undertaking not to transfer anything to aid prohibited activities, Article IV, the requirement for states parties to take any necessary measures to implement the Convention nationally, and Article X, the undertaking to assist in the fullest possible exchange of equipment, materials and information for peaceful purposes. Two other issues that are being addressed are the question of what needs to be defined and of what organization will be required to implement the strengthened BWC. Furthermore, the mandate for the regime calls for it to be devised so as to protect sensitive commercial proprietary information and legitimate national security needs.

This review focuses on the progress made in regard to the principal issues relating to declarations, on-site measures, national implementation (BWC Article IV), BWC Article III and Article X measures, definitions, confidentiality and the organization. In addition, other topics such as legal issues and confidence-building measures are touched upon; in the following paragraphs, all references are to the current rolling text {BWC/AD HOC GROUP/39, dated 2 February 1998}. Articles mentioned are those in the Protocol unless specifically identified as being BWC Articles. Unless otherwise noted, square brackets within inverted commas within this report are from the current version of the rolling text.

***Declarations*** Detailed consideration was given to Section D, Declarations, of Article III, Compliance Measures, which has increased from six to eight pages of language as the footnotes which contain detailed definitions have been extended. The text relating to what should be declared has not been changed; the changes come in the elaboration of the definitions contained in the footnotes for terms such as those relating to containment. Section E, Consultation, Clarification and Cooperation (of Article III) increased from 1 to 3 pages as this was developed principally in respect of the procedures to be followed.

***On-Site Measures: Visits*** The first 17 paragraphs Part I, Visits, of Section F, Visits and Investigations, (of Article III) were discussed at the January meeting. In addition, language from WP.243 (Sweden) was incorporated into paragraphs 20 to 42 of Part I; Part I increased from 5 to 6 pages. The terminology for visits was modified so that there are now four categories — the previous category of Ambiguity-Related Visits has been dropped: “(a) [Random Visits] (b) [Clarification Visits] (c) [Request Visits] (d) [Voluntary Visits]”

The language for Random Visits shows that the thinking about how these might be distributed has advanced. The text says:

There shall be no more than [50] Random Visits per calendar year [with the following groups of countries receiving no more than [10] Random Visits each: [Africa, Asia, Eastern Europe, Latin America and the Caribbean, and the Western European and other States...][Such visits shall be distributed [fairly] among the [5][...][regional] groups of countries — [and proportional to the number of the declared facilities of each State Party].] No State Party shall receive more than [10] Random Visits in each five year period....

In addition, language from WP. 244 (Sweden) was incorporated into Annex B, Random and Clarification Visits, providing 6 pages; previously there had been no language.

**On-Site Measures: Investigations** Insofar as investigations are concerned, there was a lot of reordering of the material with, for example, pre-inspection activities being moved from Article III to Annex D on Investigations. A useful step forward has been achieved through the consolidation into a single Section of language on Field Investigations and Investigations of Alleged Use, and also into a single section of language on Facility Investigations and Investigations of Any Other Alleged Breach of Obligations. Annex D has consequently become reduced from its 64 pages in October to 40 pages now.

**National Implementation** The text in Article X, National Implementation Measures, has been developed slightly with the language in the first paragraph now referring solely to the taking of any necessary measures to implement its obligations under this Protocol. In the body of the Article the words National Authority now appear in square brackets.

**Measures related to Article X** Article X of the BWC requires that states parties undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technical information for the use of biological agents and toxins for peaceful purposes. In addition, this Article requires that the BWC be implemented in a manner designed to avoid hampering the economic or technological development of the states parties. The January meeting saw the revision of the language for Article VII, Scientific and Technological Exchange for Peaceful Purposes and Technical Cooperation, into a clearer format which has reduced the length by over a page.

**Definitions** Further progress was made in the consideration of definitions. The lists of human pathogens was updated with the removal of some of the square brackets and some of the agents; the category “New organisms resulting from genetic manipulations” was removed. An additional animal pathogen, Lumpy Skin disease virus, was added in square brackets together with a tabulation relating the disease, family, genus and type species for the 17 animal viruses and 2 mycoplasmas.

**Confidentiality** The language for confidentiality provisions was considerably developed particularly in Annex E. Article IV, Confidentiality Provisions, has a new paragraph, 4 bis, which states that “Data required by States Parties to be assured of the continued compliance with this Convention and this Protocol by other States Parties shall be routinely provided to them.” It then sets out that this data shall include the initial and annual reports and declarations provided by states parties under Article III, section D (Declarations) together with general reports on the results and effectiveness of compliance monitoring.

Annex E now has six main sections:

- I. General provisions for the handling of confidential information; [6 pages]
- II. Conditions of staff employment relating to the protection of confidential information; [2 pages]
- III. Measures [to protect confidential information in the course of on-site activities][to ensure the protection of confidential information made available to investigating or visiting teams while they are on the territory of the investigated or visited State Party]; [2 pages]
- IV. Procedures in case of breaches or alleged breaches of confidentiality; [3 pages]
- V. Appropriate procedures to protect confidentiality [of declarations]; [2 pages]
- VI. Procedures for archiving of confidential information. [no language]

It is thus clear that appropriate attention is being given to the protection of confidential information. Some officials note, however, that it would be unfortunate if declarations were to be generally regarded as confidential as there is much to be gained from as much as possible of the declaration information being openly available as it may enhance general confidence in compliance with the Convention.

**Organization** The language in the rolling text in Article IX on organization and implementational rearrangements and in Annex H The [Technical Secretariat][Technical Body] was taken forward through discussions by the Chair of the Ad Hoc Group, Ambassador Tibor Toth. The section (C) in Article IX on the [Executive Council][Consultative Council] has been developed considerably with language on the composition which includes the depositary states of the Convention and two alternative sets of geographical distribution. There is language addressing the basis on which each geographical region shall designate states from that region for election as members of the Executive Council which seeks to ensure that states with the most significant biotechnological industry are members. One form of language is that: “At least [1/3] of the seats allocated to each geographical region shall be designated on the basis of [the significance of their national biotechnology industry in the region as determined by international data as well as ... (i) the number of declared facilities, (ii) [Special] knowledge and experience in the field of ... biological activities [directly relevant to][not prohibited by] the Convention.”

There is considerable duplication between text on the technical secretariat in Article IX and that in Annex H. This situation was continued in the January 1998 version of the Protocol. Some of this leads to significant differences between the text in one part and that in another — a

particular example relates to the role of the Technical Secretariat in conducting visits and investigations. Article IX, para 41 states that the Technical Secretariat functions shall include:

(f) Conducting [[Non-Challenge][Random]Visits][and][Clarification Visits][Request Visits][Confidence-Building Visits][Voluntary Visits] in accordance with the provisions of Article III, Part F and of Annex G;]

(g) Receiving requests for [investigations to address a non-compliance concern][field and facility investigations][challenge inspections] and processing them, carrying out the preparations for, and *providing technical support during the conduct of [investigations to address a non-compliance concern][field and facility investigations][challenge inspections]*, and reporting to the [Executive Council] [Consultative Council];] [Emphasis added]

whereas Annex H para 20 states that the functions of the Technical Secretariat shall include:

(c) *Initiate and perform investigations of non-compliance concern* in accordance with Article III and Annex D; [Emphasis added]

(i) [Conducting [[Non-Challenge][Random]Visits][and][Clarification Visits][Request Visits][Confidence-Building Visits][Voluntary Visits] in accordance with the provisions of Article III, Part F and of Annex G;]

It is assumed that the much better language in Annex H will be incorporated into Article IX in later versions of the rolling text, or that the paragraphs are indeed removed, as proposed by a footnote in Article IX. There are advantages in the Technical Secretariat of the BWC Organization being responsible for carrying out all visits and investigations.

### Prospects

The January meeting saw the successful agreement of a programme of meetings in 1998 that maintain momentum and offer the prospect that given the necessary political will, the substantive negotiations of the Protocol could be completed this year. Further impetus has been provided by President Clinton in his State of the Union address on 27 January 1998 when he said that “Now, we must act to prevent the use of disease as a weapon of war and terror.

The Biological Weapons Convention has been in effect for 23 years. The rules are good, but the enforcement is weak — and we must strengthen it with a new international system to detect and deter cheating.” The associated Fact Sheet released by the White House at the same time says that “under the new initiative announced by the President today, the United States will seek to complete the framework of a strong BWC protocol by the end of 1998.” {See *News Chronology* 27 Jan}

More recently, the European Union has agreed a Common Position that is legally binding on the 15 member states which states that:

Member States ... shall actively promote decisive progress in the work of the Ad Hoc Group, with a view to concluding the substantive negotiations by the end of 1998, so that the Protocol can be adopted by a Special Conference of States Parties early in 1999.

The Common Position sets out the:

measures, including verification measures, which are both central and essential to an effective Protocol to strengthen compliance with the BTWC:

— declarations of a range of facilities and activities of potential relevance under the Convention, *inter alia* so as to enhance transparency;

— provision for visits to facilities in order to promote accurate and complete declarations and thus further enhance transparency and confidence;

— provision for rapid and effective investigations into concerns over non-compliance, including both facility and field investigations;

— a cost-effective and independent organization, including a small permanent staff, capable of implementing the Protocol effectively.

This Common Position includes the vital elements for an effectively strengthened BWC; it will be interesting to see how the Ad Hoc Group negotiations progress in March, June/July and September/October.

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*This review was written by Graham S Pearson, HSP Advisory Board*

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## News Chronology

## November 1997 through February 1998

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*What follows is taken from the Harvard Sussex Program CBW Events Database which provides a fuller chronology and identification of sources, all of which are held in hard copy in the Sussex Harvard Information Bank. The intervals covered in successive Bulletins have a one-month overlap to accommodate late-received information. For access to the Database, apply to its compiler, Julian Perry Robinson.*

**3 November** Iran deposits its instrument of ratification of the Chemical Weapons Convention [see 27 Jul]. In 30 days time, it will thus become the 103rd state party to the treaty. A 7-article declaration has accompanied the instrument of ratification. It includes the following: “[Iran] reserves the right to withdraw from the Convention under the following circumstances: — non-compliance with the principle of equal treatment of all States Parties in implementation of all relevant provisions of the

Convention; — disclosure of its confidential information contrary to the provisions of the Convention; — imposition of restrictions incompatible with the obligations under the Convention.” The declaration goes on to present certain interpretations of the Convention, for example: “inspection equipment should be commercially available to all States Parties without condition or limitation”. Again: “As stipulated in Article XI, exclusive and non-transparent regimes impeding free internation-