

PREPARATORY COMMISSION FOR THE ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

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FACSIMILE MESSAGE

Date : ... 2 May 1994

TO : Matthew MESESON

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From : Gene CANONNE

Number of pages: (including cover sheet)

Subject : Draft article for the CWC Bulletin

Dear Matt,

As you know, France presented to the CD a CD document on the Scientific Advisory Board. It seems to me interesting to boost again the debate on that issue.

So, you will find attached a draft article presenting my opinion. If you agree, I would like this view appearing in the next issue of the CWC Bulletin. Furthermore, I could give a brief resume during the next Lugwash meeting.

Best regards

Gene

DRAFT ARTICLE**THE ROLE OF THE SCIENTIFIC COMMUNITY WITHIN THE CONTEXT OF THE CONVENTION**

The international scientific community should be able to provide a dispassionate analysis of the development of science and technology from the point of view of the Convention. Indeed, almost all of the Articles of the Convention provide ample justification of the necessity for taking competent scientific advice.

To obtain the best possible means of verification through continuous updating, it will be absolutely necessary to ensure that the implementation of this treaty keeps pace with scientific and technological developments. Furthermore, one will have to minimise and, as much as possible, anticipate the risks inherent in the appearance of new substances, whatever their origin may be, as well as of new technologies with the potential to undermine or to circumvent the Convention, should they not be identified and dealt with in time.

The Convention can only become an evolving and living institution, without any change in its purposes, principles and provisions, through the establishment of a credible scientific body constituted in an advisory capacity, but without decision-making powers. Such a body will originate from within the international scientific community, which will then provide it with constant support.

Function of the Scientific Advisory Board in the Convention

Paragraph 21 (h) of Article VIII states that the Conference of the States Parties "shall review scientific and technological developments that could affect the operation of this Convention". "In this context, [the Conference of the States Parties] shall direct the Director-General to establish a Scientific Advisory Board to enable him, in the performance of his functions, to render specialised advice in the areas of science and technology relevant to this Convention, to the Conference, the Executive Board or States Parties."

In fact, the Scientific Advisory Board (SAB) will be expected to provide the Conference of the States Parties, as well as the Executive Council, with a considered opinion on any scientific or technological innovation or development which could have implications for the objectives of the Convention. The SAB could make recommendations to the Director-General concerning any scientific or technological advancements which might facilitate improved monitoring of and thus greater respect for the provisions of the Convention.

Lastly, any State Party should be able to request from the SAB any information or clarification deemed necessary to respond to any question it may have, for instance in the fields of verification methods, the development of new toxic substances or of new techniques for the production of toxic agents.

Composition and organisation of the SAB

In this respect, the Convention states that "the Scientific Advisory Board shall be composed of independent experts appointed in accordance with terms of reference adopted by the Conference" (see paragraph 21 (h) of Article VIII).

It is further stated in paragraph 45 of the same Article that "the Director-General shall be responsible for the organisation and functioning of the Scientific Advisory Board ... He shall ... appoint members of the Scientific Advisory Board, who shall serve in their individual capacity. The members of the Board shall be appointed on the basis of their expertise in the particular scientific fields relevant to the implementation of this Convention."

Several important concepts may be derived from the above provisions. Firstly, the members of the SAB shall serve "in their individual capacity," and will under no circumstances represent their respective governments. These "independent experts" should thus be able to offer independent advice to the various executive organs of the Convention. However, the appointment of the experts will be subject to consultation with the States Parties by the Director-General. Will we then witness a kind of political negotiation to ensure, for instance, either that this or that country is represented on the Board or that there is balanced geographical representation within the SAB? The latter would affront the international scientific community at large, as the Convention clearly specifies that "the members of the SAB shall be appointed on the basis of their expertise." On the contrary, an agreement will need to be reached between the States Parties regarding a definition of this concept of expertise in relation to those fields of technological and scientific expertise to be viewed as selection criteria for the SAB. It will be important to ensure that they are based on real knowledge which is animated by an awareness of the most recent scientific and technological developments.

It is only under such circumstances that independent advice can be offered freely and in a responsible way by a body which has no vested interest. In the absence of this, the risk is that any technological or scientific development will stimulate discussions and disagreements amongst the States Parties or with the Technical Secretariat. In such a case the established bodies of the Commission would of course have to take the necessary decision. But any such decision will be made most rapidly and clearly if it is based on impartial opinions such as would be provided by an SAB vested with incontestable authority and independence.

The tasks of the SAB

In general, the Convention takes account of scientific and technological developments using as a basis the criteria as defined in paragraph 1 (a) of Article II. However, it will be important to ensure that the Technical Secretariat and the Executive Council have the maximum amount of information at their disposal to exercise control and to form a judgement when they are confronted with new problems.

In this respect, the SAB should be in a position - directly or indirectly - to play an advisory role in the following fields:

. the monitoring of all scientific and technological development and progress, especially in those fields that have a direct impact on the functioning of the Convention:

- chemistry
- chemical engineering
- pharmacology
- biotechnologies
- industrial chemistry
- toxicology
- micro-biological and enzymatic engineering
- military sciences

. the identification of new scientific and technological fields which are potentially related to the Convention;

. the identification of new toxic chemicals and new precursors which could be added to the schedules of products, or of new synthetic methods facilitating the production of these products;

. the provision of additional information regarding requests for revision of the schedules proposed by the States Parties;

. proposals to revise the guidelines determining the assignment of a particular substance to a particular schedule;

. the identification of technological developments which could increase efficiency, or on the contrary could lead to new problems in verification operations, in particular analytical techniques, continuous monitoring systems, and new industrial processes;

. proposals concerning cooperation between the States Parties, the scientific community, and the OPCW for collecting and making available relevant technological and scientific information;

. proposals concerning possible means for the development of scientific and technological cooperation between the States Parties in the context of the Convention.

Functioning of the SAB

The realisation of the tasks listed above presupposes a clear definition of the respective responsibilities of the SAB and the Director-General.

Indeed, the Convention states that "the Director-General may also, in consultation with members of the Board, establish temporary working groups of scientific experts to provide recommendations on specific issues. In regard to the above, States Parties may submit lists of experts to the Director-General" (paragraph 45 of Article VIII).

In reality, this convoluted provision reflects the differences of opinion which surfaced during the negotiations regarding the responsibilities of the SAB and its relationship with the different bodies of the OPCW. This provision does not facilitate a harmonious division of responsibilities. The States Parties will, indeed, be involved in both the making of proposals for the members of the SAB and the submission of lists of experts to enable the Director-General, in consultation with members of the Board, to establish the temporary working groups on specific issues referred to above.

It is almost certain that the Director-General will be principally preoccupied with the difficult tasks associated with verification. If one admits that a handful of the OPCW staff will be responsible for remaining up-to-date with technological and scientific literature, which in general lags behind research and development, as well as for the specific resolution of technological problems in the context of verification, it is clear that the Technical Secretariat will not itself be in a position clearly to assess the real impact of technological and scientific progress on the spirit and the implementation of the Convention.

The SAB should be the engine of such an assessment, and its functioning would be based on flexible organisation and a clearly-defined relationship with the Technical Secretariat.

The SAB could, for instance, be composed of several study groups, whose task would be to monitor developments in the different technological and scientific fields and to submit a report to the Executive Council on an annual or, if need be, an emergency basis.

The role of the Preparatory Commission

Paragraph 21 (h) of Article VIII states that the Conference shall adopt criteria to facilitate the appointment of independent experts who will compose the SAB. It is thus up to the Preparatory Commission to prepare and to adopt the necessary provisions. However, in addition to these criteria, and to ensure that the SAB is operational as soon as the Convention enters into force, the Commission should in particular pay attention to the following aspects:

- . the length of appointment of the members of the SAB;
- . renewal of its membership, in particular in relation to the development of new disciplines which could affect the Convention;
- . the definition of the functions of the SAB;
- . determining the operating procedures of the SAB;
- . the definition of the role of the Director-General.

The Preparatory Commission should thus try to provide a clear and unambiguous definition of the scientific character of the SAB, setting aside any temptation to make of it a political body, and should confer upon it the necessary unquestionable authority and independence, since the advice it offers will, in some cases, have a direct impact on the Convention and its implementation.

Contribution of the international scientific community

Many scientists are interested in disarmament, more particularly nuclear disarmament, to a greater or lesser extent and for different reasons, and have often made significant contributions by alerting public opinion and governments to the danger and the threats linked in particular to weapons of mass destruction. Numerous national academies, associations, and learned societies have shown an interest in the disarmament issue in general.

Although chemical disarmament has not generated the same interest as nuclear disarmament within the scientific community, something which is understandable due to the difference in the nature and degree of threat, over the past few years information relating to chemical disarmament has gradually been made known to a broader public. Those who negotiated the Convention in Geneva, as well as the governmental authorities of the most involved countries, have benefited from the knowledge and assistance of well-known scientists in different fields of expertise.

The preparatory phase of the implementation of the Convention currently in progress should allow for communication between scientists throughout the world who are sensitive to the issues related to chemical disarmament, with a view to:

- . disseminate information amongst all potentially interested scientists;
- . stimulate some reflection on the relationship that should be developed between the international scientific community and the Organisation for the Prohibition of Chemical Weapons;
- . propose an organisational structure for the Scientific Advisory Board, as a basis for discussion by the Commission;
- . develop criteria which will facilitate the definition of the composition and appointment of the members of the SAB;
- . determine the fields, subjects and issues which are currently, or are likely to be sensitive from a scientific and technological point of view and are relevant to the effective implementation of and respect for the Convention.

Various organisations representing scientists have already given some thought to problems related to the Convention. A means has yet to be found for the good will which already exists amongst scientists to be channelled with increased effectiveness towards the goal of chemical disarmament.

Concluding remarks

To ensure the best possible implementation of the Convention, it is important to be able to make appropriate use of the expertise of qualified representatives of the international scientific community, without, however, involving them in the administration of the established regime of the treaty. One should at all costs avoid anything that might resemble "a Government of Wise Men".

The purpose of calling upon scientists is to avoid a blind, blinkered application of the Convention which would lack the capacity to adapt to the increasingly rapid and dynamic development of science and technology.

The credibility and efficiency of the Convention can only be enhanced by the participation of scientists. In particular, the Scientific Advisory Board will help to improve the standing of chemical disarmament in the eyes of governments, as well as of public opinion in general.