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DATE: 16/08/94

PAGES: 15
(incl. this page)

COMMENTS:
DEAR MATT,
PLEASE FIND ATTACHED LETTER AND ARTICLE
(AS DESCRIBED IN BOB MATHEWS' LETTER). COULD YOU
COMMUNICATE WITH ME ON THIS AS BOB
LEAVES SHORTLY FOR SOUTH EAST ASIA.
LOOKING FORWARD TO MEETING YOU. YOURS,

DEPARTMENT OF DEFENCE

DEFENCE SCIENCE AND TECHNOLOGY ORGANISATION

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**Professor M Meselson
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Dear Matt,

Hoping that all is well with you at Harvard, and that you are having a good summer.

You will note that I no longer work at Materials Research Laboratory, have a new postal address, and also have new phone and fax number- a consequence of restructuring within the Defence Dept. In fact, Materials Research Laboratory no longer exists, but I am still sitting in the same office and doing more or less the same things as the last time we were in touch.

I am making a three week visit to the South East Asian capitals, starting next week, to provide them with a review of the progress in development of verification aspects in the PrepCom, guidance in the setting up of their National Authorities, and advice on outreach to chemical industry, surveys of relevant facilities, declarations etc.

In preparing for this visit, Tim McCormack and I have prepared a background paper which describes the national implementation measures required for the Chemical Weapons Convention, and discusses the time needed to have these requirements in place. It also compares the complexity of these requirements with those of other arms control agreements, and reviews the various outreach programs being conducted to assist Member States in their national implementation. We conclude that that the current rate of ratifications is an indication of the longer than anticipated time required for prospective States Parties to the CWC to prepare for domestic implementation of the Convention obligations, rather than an indication of lack of interest in the CWC or as a consequence of the PrepCom not yet having resolved all of the outstanding issues (as suggested by a certain delegation during the last PrepCom plenary). We also suggest there will be a rising trend in the

number of ratifications in the latter part of 1994 and the early part of 1995, and that entry into force is likely some time between the latter part 1995 and mid-1996.

The background paper is just over 20 pages long, and we hope will find its way into an appropriate arms control journal. However, I was talking to Julian last week, and he expressed an interest in having an abbreviated version as an article in the September CWCB, and he asked me to fax a copy to you to see what you think. So far, Tim and I have trimmed the article down to 12 pages, but we think that further reduction will require deletion of complete subsections (eg comparison with NPT requirements). We presume 12 pages is still too long for CWCB. So we have decided to fax it across to you "as-is" to see what you think. If you would let us know within a few days how you would like it further reduced (eg fax back a copy with the appropriate markings) we can then key in the changes and either send you a floppy disk or try email. (NB. we have not included Germany or Bulgaria which came in today's news - hopefully there will be a few more to add before it goes to print).

Because I will be away much of the time in the next few weeks (ie. to Canberra tomorrow and leaving for SE Asia at the weekend), would you please send your reply by fax to Tim). I look forward to hearing from you soon, and also seeing you again before too long, possibly in The Hague later in the year, or perhaps at a regional seminar.

With best wishes,



R J Mathews
16 August 1994.

ENTRY INTO FORCE OF THE CHEMICAL WEAPONS CONVENTION: ACTIVITIES AND PROSPECTIVE TIMETABLE¹

Robert J Mathews and Timothy L H McCormack²

1. INTRODUCTION

The CWC will enter into force 180 days after the date of deposit of the 65th instrument of ratification, but not earlier than two years after it was opened for signature (ie. not before 13 January 1995). At the time of the signing ceremony in January 1993, there was an expectation that at least 65 states would have submitted their instruments of ratification to the Secretary General of the United Nations (the Depository of the Convention) by July 1994, triggering entry into force in January 1995. According to the 1993 SIPRI Year Book:

"The sheer number of signatures during the Paris Ceremony, and the assurances of speedy ratification made in so many of the accompanying national statements, suggest that the Convention will enter into force on or soon after 13 January 1995."³

However, at the time of writing, the trigger date has passed with only *ten* States having deposited their instruments of ratification with the UN Secretary General.⁴

Upon entry into force, the Convention will be administered by the new Organisation for the Prohibition of Chemical Weapons (OPCW). The development of detailed regulations and procedures, and establishment of the necessary infrastructure for the OPCW is not a trivial task, at least in part because of the necessity of retaining the essential aspects of the number of carefully balanced deals which were struck in the final months of negotiation.⁵ Indeed, at the time, this was seen as the major task in the lead up to entry into force. The complementary responsibility of individual States preparing the necessary administrative and legal

¹ The views expressed in this article are those of the authors and do not necessarily reflect those of the Australian Government.

² Robert Mathews is Principal Research Scientist with the Australian Defence Science and Technology Organisation, Melbourne; Timothy McCormack is Senior Lecturer in International Law at the University of Melbourne.

³ *SIPRI Year Book 1993*, p. 732.

⁴ In chronological order of ratification those States are Fiji, the Seychelles, Mauritius, Sweden, Norway, Australia, Albania, the Maldives, the Cook Islands and Spain.

⁵ For a more detailed discussion of the final months of the negotiations, see M. Letts, R.J. Mathews, T.L.H. McCormack and C. Moraitis, 'The Conclusion of the Chemical Weapons Convention: An Australian Perspective' (1993), 14, *Arms Control*, 311.

steps to ensure national readiness for implementation, was seen as a simpler, less time-consuming process.

Thus, in 1993 the major interest in the progress towards entry into force was the work of the Provisional Technical Secretariat (PTS)⁶ in conjunction with the PrepCom.⁷ It is therefore somewhat ironic in mid-1994 to realise that, after what can only be described as a frantic effort in the PrepCom in The Hague to be ready for entry into force by the earliest possible date (13 January 1995), the rate of ratifications makes it inevitable that entry into force will take place at a later date than January 1995.

An unfortunate consequence of the slippage of entry into force from the minimum two year period is that a few observers have interpreted the slower than anticipated rate of ratifications as indicative of either a prevailing impasse in the PrepCom process, or still worse, a lack of commitment by PrepCom Member States to the CWC. For example, at the Seventh Plenary meeting of the PrepCom on 27 June, it was suggested by one delegation that "the delay in the ratification by such a large number of Signatories" was a consequence of unresolved issues in the PrepCom.

In our view, there has been very respectable progress in the PrepCom, especially when taking into account the complexity of the range of issues to be resolved, many of which were not resolved in the Geneva process.⁸ Against this background, the rate of ratifications can be interpreted more correctly as not an indication of lack of interest in the CWC or a consequence of the PrepCom not yet having resolved all of the outstanding issues. Rather it is an indication primarily of the longer than anticipated time required for prospective States Parties to the CWC to undertake the necessary measures to prepare for domestic implementation of the Convention obligations prior to ratification.

In this article, we discuss the time needed to have the national implementation measures, including the requirements for enabling legislation and the National Authority requirements in place, based on the Australian experience, and compare the complexity of these requirements with those of other arms control agreements. We also review the various outreach programs being conducted to assist Member States in their national implementation. Finally, we examine the concerns that have been expressed about the reasons for lack of ratifications, in light of these earlier sections, and examine the prospects for entry into force of the CWC.

⁶ The PTS is the body set up to administer the PrepCom process and is the forerunner of the OPCW Technical Secretariat (TS).

⁷ Membership of the PrepCom is constituted by representatives from all Signatory States to the Convention. A chronological account of the activities of the PrepCom, including a complete listing of the various Experts Groups is provided in the quarterly journal "Chemical Weapons Convention Bulletin", published by the Harvard-Sussex Program on CBW Armament and Arms Limitation.

⁸ R.J. Mathews and A. Taubman, 'Preparing for Implementation of the Chemical Weapons Convention: Progress During 1993' in J.B. Poole and R. Guthrie (ed.), *Verification 1994*, p. 111.

2. TIME REQUIRED FOR RATIFICATION: AUSTRALIA'S EXPERIENCE

2.1 Preliminary Preparations

At the Government-Industry Conference against Chemical Weapons, held in Canberra in September 1989, the Australian Foreign Minister, Senator Evans, announced that the Department of Foreign Affairs and Trade was establishing a national secretariat as the nucleus for the future National Authority. He stated that the secretariat, in consultation with appropriate federal and state government departments, would be responsible for reviewing existing laws and regulations covering the activities of the chemical industry, and looking for ways of introducing and adapting the prospective requirements of the CWC into the current regulatory matrix.

The work of the secretariat proceeded along two fronts. First, there was the need to assemble data on which chemicals relevant to the CWC are produced and used in Australia. To this end, a survey was designed and a questionnaire developed, based on the CWC Schedules. The survey, which was conducted in December 1991, was sent to more than 2000 organisations, including chemical manufacturers, industrial chemical users, government agencies and laboratories, hospitals and universities. Following the processing of this data, Australia was in a much better position to address the question of resources required for its National Authority.

Second, there was a need to examine how the CWC may be best implemented in Australia, in terms of national laws, regulations and administrative structure. A review of the existing legislation and administrative structures was undertaken. Following completion of this review, a package to implement the CWC in Australia was designed, which included legislation giving effect to many Convention obligations and the Ministerial decision to establish the National Authority with the powers to collect production and other relevant data, and with the ability to facilitate international inspections of chemical-related industries in the country.

Australia's domestic legislation, the Chemical Weapons (Prohibition) Bill 1993, was introduced into Parliament on 16 December 1993 and enacted by both Houses of Parliament in February 1994. *The Chemical Weapons (Prohibition) Act* subsequently passed into law with the Royal Assent in April 1994.

2.2 Australia's National Authority

Australia's National Authority, which will be called the Chemical Weapons Convention Office (CWCO), is being established within the Department of Foreign Affairs and Trade (DFAT). The CWCO will be closely associated with the Australian Safeguards Office (ASO), which is responsible, amongst other things, for implementation of Australia's safeguards obligations under the NPT (Nuclear Non-

Proliferation Treaty). ASO is headed by a statutory officer, the Director of Safeguards, who is directly responsible to the Foreign Minister.

The Director of Safeguards will also be appointed Director of the CWCO. This arrangement recognises the institutional and administrative similarities between the chemical weapons prohibition regime and the nuclear non-proliferation regime, and enables the most effective use of available senior executive and administrative support resources. Specialist staff will be recruited for the CWCO; at this stage, apart from the Director, two full-time staff are envisaged, with part-time support as required from experts drawn from other areas of the government and possibly the private sector.

Based on our experience to date, it should be emphasised that the setting up and operation of a National Authority need not necessarily be expensive, and should not be seen as an onerous administrative burden by a prospective State Party. In particular, for a country with no chemical weapons and a very modest chemical industry, the size of the National Authority may be very small - possibly only requiring an existing small section in the foreign ministry (or other appropriate ministry) to be designated as the relevant authority.⁹

2.3 Temporal Perspective

From the start, the Australian Government had advantages in working towards ratification. We were very familiar with the CWC text, and already had a good idea of its implications for National Implementation. As discussed above, our bureaucracy had begun preliminary preparations for entry into force well before the CWC was completed. We had already had the advantage of a long and constructive dialogue with industry to prepare for implementation. We possess no CW or CW related facilities, and our chemical industry is a fairly modest one. Instructions for legislative drafting were prepared in time to allow the Bill to be drafted and presented to Parliament before the end of 1993. Parliament was then able to debate the legislation and enact it without significant opposition or procedural delays.

Thus, with all procedural factors that could assist prompt ratification in place, and a strong political commitment to early ratification, Australia deposited its instrument of ratification in May 1994. Nevertheless, even with a highly favourable environment for ratification it took some 16 months after signing the CWC for Australia to ratify. Consequently, from our perspective, the current number of ratifications is therefore neither surprising nor disappointing.

3. COMPARISON OF CWC NATIONAL OBLIGATIONS WITH OTHER ARMS CONTROL AGREEMENTS

⁹ It is our view that for many small States, including those in South East Asia and the South Pacific with no chemical weapons and no declarable chemical industry, an individual governmental official with access to the appropriate expertise of other officials on an "on-call" basis may well be sufficient to fulfil the requirements of the National Authority.

A comparative analysis of the time taken for international and national implementation of major multilateral arms control agreements supports the thesis that the current status of the CWC implementation process is entirely understandable and not a basis for pessimism.

3.1 Non-Proliferation Treaty (NPT)

The NPT has been used as a model during much of the negotiation of the Chemical Weapons Convention and development of inspection provisions. It is interesting to compare the two year minimum period between signature and entry into force of the CWC, with the time period between opening for signature and entry into force of the NPT.

The NPT was opened for signature on 1 July 1968 and entered into force on 5 March 1970 (ie. slightly less than two years between opening for signature and entry into force). However, there are several significant differences between the entry into force requirements for the NPT and the CWC:

- The NPT did not require the setting up of a new international organisation to administer the Treaty. Rather, the functions of the International Atomic Energy Agency (IAEA) (which was set up in 1957), were extended to cover the safeguards system for NPT States Parties. On the other hand, the OPCW (including the recruitment and training of the 200-member inspectorate) is being set up "from scratch", in the period between signature and entry into force;
- The NPT did not require the same level of national implementing measures to be in place prior to ratification as the CWC does. Most importantly, the NPT only imposed an obligation to commence negotiating a safeguards agreement with the International Atomic Energy Agency within 18 months of entry into force for the State Party, and to have concluded the agreement within 18 months of commencement of negotiation.¹⁰ Implementing legislation allowing for the collection of data and providing for international inspections of facilities was not a treaty obligation accruing upon entry into force. Consequently, the State Party could ratify and be acting in accordance with its treaty obligations at entry into force without having the implementing legislation in place;
- States Parties to the NPT "having minimal quantities of nuclear materials" could, in effect, postpone the development of a safeguards agreement until such time that the State Party had nuclear materials in quantities exceeding certain specified limits. On the other hand, as discussed in Section 2, all States Parties to the CWC (even those with no chemical weapons and no chemical industry) will be required to enact a minimum set of legal requirements to allow for collection of relevant data, and the possibility of a challenge inspection;

¹⁰ That is, within 3 years after entry into force for the State Party - see NPT Article III.4.

- Application of the IAEA safeguards under the NPT is limited to the peaceful utilisation of nuclear energy - none of these activities are related to verification of nuclear weapons. On the other hand, the CWC will have to deal with the verification of the storage and eventual destruction of chemical weapons and destruction (or reconversion) of the former chemical weapons production facilities;
- The NPT nuclear material safeguards systems are based on materials accountancy related to three chemical elements: thorium, uranium and plutonium. In processed form, these isotopes are expensive, not widely available, and have stringent regulations on their handling, storage and transportation. Thus, verification of the NPT is limited to a relatively small number of facilities. On the other hand, because many of the chemicals that can be used for the production of Chemical Weapons are widely used for the production of commercial products in the civilian chemical industry, a large percentage of chemical production facilities will be covered by the routine declaration and inspection requirements of the CWC. This will require a major outreach effort to relevant parts of the chemical industry, particularly in countries with large chemical industries; and
- The NPT only required 43 ratifications (ie. UK, USSR, USA and forty other States) for entry into force.

It is interesting to note that, despite the greatly reduced complexity of the NPT *vis-a-vis* the CWC, and the correspondingly easier path from signature to entry into force, there were a number of teething troubles in the early years after entry into force of the NPT. For example, at the first review conference in 1975, a number of concerns were expressed, including that a number of States Parties had not yet concluded safeguards agreements. Indeed, the following discouraging assessments were made:

"It is hard to see how the NPT can now contribute towards the establishment of an effective non-proliferation regime."¹¹ ; and

"The [review] conference succeeded in not breaking down. But it failed in solving the problems essential for the survival of the NPT."¹²

However, ten years later, at the conclusion of the third review conference of the NPT in September 1985, there was a much more positive assessment of the effectiveness of the NPT:

"There was a general recognition that the treaty is essential to international peace and security, that it has helped keep the number of nuclear weapon states constant and that it has served thereby the interests of all nations,

¹¹ *SIPRI Yearbook 1976*, p. 11.

¹² *SIPRI Yearbook 1976*, p. 391.

nuclear and non-nuclear alike. The fact that the NPT has managed to attract more adherents than any other arms control agreement clearly carries political weight."¹³

In our view, the time involved either for resolution of issues in the CWC PrepCom process or in the preparation of national implementation procedures by individual Member States, should be viewed with the benefit of hindsight, and with the perspective of the time taken to achieve an effective NPT.

3.2 Other Arms Control / Disarmament Agreements

Our analysis of other major multilateral arms control agreements¹⁴ indicates that they have primarily involved commitments regarding future activities¹⁵, and so required minimal requirements for national implementation prior to entry into force. Any comparison of the corresponding times between opening for signature and entry into force of these instruments (typically from several months to 3 years) and the CWC should take this into account. For example, the Biological Weapons Convention (BWC) contains no verification measures at all. In Australia's case, the requisite implementing legislation for the BWC, *The Crimes (Biological Weapons) Act 1976*, was only seven pages long (including the legislation and the full treaty text), whereas *The Chemical Weapons (Prohibition) Act 1994* is 164 pages long. Despite the disparity in requisite implementing measures, the BWC took almost three years to enter into force, on 26 March 1975, after being opened for signature on 10 April 1972.

4. PREPCOM ACTIVITIES TO PROMOTE EFFECTIVE IMPLEMENTATION

Given the number of ratifications of the CWC by August 1994, it is useful to examine the PrepCom activities which have been initiated to promote effective implementation. In particular, the PTS has been keen to support various initiatives designed to facilitate discussion and understanding of the possible approaches to the process of implementation at the national level. More than eighty Member States have become actively involved in these outreach activities. The international chemical industry, non-governmental organisations and the international media have also been involved.

4.1 Initiatives Under PTS Auspices

¹³ *SIPRI Yearbook 1985*, p. 470.

¹⁴ A summary of the major multilateral arms control agreements is contained in the relevant sections of the *SIPRI Yearbook 1993*, pp. 759-791.

¹⁵ Although the Biological Weapons Convention (BWC) required States Parties which possessed biological weapons and related facilities to either destroy them or convert them to peaceful purposes within nine months after entry into force.

National Trial Inspection Seminar

The PTS organised a seminar on National Trial Inspections (NTIs) on 2 October 1993 which drew over 90 participants from 44 countries. The Seminar proved to be a unique opportunity to share the experience of National and Multinational Trial Inspections among Member States which would assist them in making appropriate preparations for the forthcoming inspections related to the Convention.

Chemical Industry Meetings

The first joint meeting between the PrepCom Experts Group on Chemical Industry Facilities and industry representatives was held on 6-7 October 1993. This meeting focussed on industry concerns about preparations for entry into force of the Convention, issues of in-plant inspection operations and safety, and confidentiality. The meeting was attended by over 132 individuals from 39 countries. A follow-up meeting of industry personnel was held in April 1994.

National Implementation Seminar

On 18 December 1993, the PTS hosted a seminar on National Implementation of the Convention, to assist Member States to prepare for implementation of the CWC through comparing notes on national experiences to date, and by identifying areas of common understanding and harmonised national approaches and/or mutual concerns. There were approximately 120 representatives from 56 Member States at the seminar. The seminar demonstrated that many CWC signatories with significant chemical industry are actively planning for national implementation of the Convention, and are beginning to think closely about the practical requirements for ratification.

Regional Seminars

The PTS proposed a series of regional seminars to consider the concerns of States in more detail, recognising that regional seminars would enable the attendance of a broader range of participants than those who attend the PrepCom activities in The Hague. The regional seminars, involving government and industry representatives, aim to develop a common understanding of the implementation process, and to enhance the political momentum towards ratification and implementation. These Seminars have provided an impetus for States to continue the process of preparing for ratification of the Convention.

The regional seminar programme was inaugurated with a Latin American Seminar in Santiago on 9-10 September 1993 which is to be followed-up with another seminar in Lima in September 1994. East European Signatory States held a regional seminar in Warsaw 7-8 December 1993 with observers from other

Signatory States outside the region and from Non-Governmental Organisations.¹⁶ There was a follow-up seminar in Brno on 1-2 June 1994¹⁷. The PTS also participated in a South East Asian Regional Seminar held May 9-10 1994 in Bangkok.¹⁸ The Thai Government hosted the conference which was co-sponsored by Australia. A follow-up seminar for South-East Asia is planned for Jakarta in late 1994. The PTS has recently announced plans to hold an African regional seminar in South Africa and discussions for regional seminars in the Middle East and in South Asia.¹⁹

4.2 External Initiatives Welcomed by the PTS

In addition to the PrepCom initiatives, a number of other proposals have been developed for promoting implementation of the CWC: these have extended to regional consultations, legal analysis, industry consultations, and input by non-governmental organisations. Such initiatives have included:

- Australian Chemical Weapons Regional Initiative

During the last few years of the CWC negotiations in Geneva, the Australian Government had sponsored annual seminars and workshops for South East Asian and South Pacific States under the auspices of the Chemical Weapons Regional Initiative (CWRI).²⁰ The last annual seminar, held from March 31 - April 2 1993 with representatives from 21 South-East Asian and South Pacific states, focussed on national implementation of the CWC and preparation for entry into force. Participants discussed the question of designation or establishment of an appropriate National Authority responsible for liaison with the OPCW and canvassed issues relating to the verification provisions of the CWC, and monitoring the transfer of chemicals.

- "Kellman Group" of International Legal Experts²¹

¹⁶ The Seminar was attended by representatives from Albania, Azerbaijan, Belarus, Bulgaria, Croatia, Czech Republic, Estonia, Germany, Hungary, Latvia, Netherlands, Poland, Romania, Russian Federation, Slovakia, Sweden, Ukraine and USA. Non-Governmental Organisations represented included Harvard Sussex Program and SIPRI.

¹⁷ The Seminar was attended by representatives from Bulgaria, Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania, the Russian Federation, Slovak Republic, Slovenia and the Ukraine. The non-regional representatives were Austria, Germany, the Netherlands, Sweden, the United Kingdom and the United States.

¹⁸ The Seminar was attended by representatives from Australia, Brunei Darussalam, Cambodia, China, Indonesia, Japan, Laos, Malaysia, Philippines, Republic of Korea, Singapore, Vietnam, and from the host State, Thailand. The Non-Governmental Organisations represented were the Harvard - Sussex CBW Program (HSP), SIPRI, Kellman Group and ASEAN Chemical Industry Club.

¹⁹ Report of the Executive Secretary: The Intersessional Period 16 April to 26 June 1994, PrepCom Doc. PC-VII/5.

²⁰ For more detail on the activities and outcomes of the CWRI process see T.L.H. McCormack, 'Some Australian Contributions to Chemical Weapons Non-Proliferation and Disarmament' (1993) 14 Australian Yearbook of International Law, pp. 167-170.

²¹ For membership of the research team and the Committee of Legal Experts see Kellman *et al.*, *op. cit.* note 13, pp. 148-149.

Another initiative welcomed by the PTS was the preparation of a Manual for National Implementation by a research team headed by Professor Barry Kallman of De Paul University, Chicago in consultation with a Committee of Legal Experts. The motivation for the Manual was to assist national legislative drafters to understand their Governments' international legal obligations under the CWC.

- **Other Research Institutes**

The PTS has requested assistance from other research institutes. For example, in cooperation with the Harvard Sussex CBW Programme, the PTS is working on an international information project on the implementation of the CWC. It is intended that the project will produce and disseminate a range of information in audio-visual or printed form about implementation issues, and will develop an "Integrated Guide" to Obligations under the CWC. We understand that the Stockholm International Peace Research Institute (SIPRI) is in the process of developing a National Implementation project.

5. PROSPECTS FOR ENTRY INTO FORCE

The conclusion of the negotiations for the CWC and the subsequent signing ceremony did not herald the end of the entire process, but the transition from one stage to another in the overall process towards an effective CWC. While there has been a substantial amount of progress in the PrepCom, there is still a lot to be done before we have an operational CWC and a world free of chemical weapons²². That said, we consider that the world is already benefiting from the conclusion of the Convention - an increasing number of governments are citing the achievement of the CWC as a positive factor in the process towards a more secure international environment - a sentiment which underlines the growing effectiveness already of the CWC in establishing a global norm against chemical weapons.

Looking back over the last eighteen months, there is no doubt that the PrepCom's task of setting up an international organisation within a two year period, which was necessitated by the presumption that 65 ratifications may well have been deposited with the Secretary General of the UN by July 1994, was a very ambitious undertaking. This placed the PrepCom process, and the PTS in particular, under enormous pressure. The negotiators in Geneva, who were responsible for this minimum two year implementation period, greatly underestimated the effort involved in setting up a completely new international organisation of approximately 500 personnel, including 200 trained inspectors.

It has now become clear that the expectation, in some quarters, of 65 ratifications within eighteen months of opening for signature amounted to unrealistic estimates of the time involved for States to prepare for national implementation and

²² A view shared by others, including J.P. Perry Robinson, "The CWC - One Year Later", *The ASA Newsletter*, No 94-1, February 1994.

ratification of the CWC. However, there are many positive signals on the progress of the ratification process. For example, a large number of States, including several Western developed States with significant chemical industries, have stated that they intend to have implementing measures in place and to ratify before the end of 1994. Indeed, it is anticipated that a number of Member States will complete their ratification in the remainder of 1994. Of particular interest are Germany and USA - two of the Signatory States possessing the largest chemical industries (and USA possessing the second largest CW stockpile). We anticipate that their ratifications will be interpreted as a "hurry up" message to other Member States, including those having large chemical industries.

A question mark still hangs over the date of ratification by the Russian Federation (RF). In the sixth Plenary, a message from the Russian Foreign Minister Kozyrev stated that the Russian Duma had begun preparations for ratification.²³ While it is unlikely that the RF will complete its ratification process in 1994, it has become clear that the USA is not making its own ratification date subject to RF ratification, and that the USA is confident that the RF will ratify in time to be an Original State Party. In a joint summit meeting in Moscow in January 1994, President Yeltsin and President Clinton declared their "resolute support for the Convention on the Prohibition of Chemical Weapons and their intention to promote ratification as rapidly as possible and entry into force of the Convention not later than 1995".²⁴

Based on a number of very supportive statements made by many Member States during PrepCom plenaries and outreach seminars²⁵, we are confident that other States are taking their future obligations very seriously and are developing the necessary detailed preparations for entry into force in good faith. For example, there are more than eighty Member States actively involved in the PrepCom outreach activities including regional seminars. That said, there is little doubt that a number of Member States have significantly underestimated the time required to fulfil their national implementation requirements (or have had problems slotting their CWC-related legislation into the parliamentary timetable). While these delays by Member States are resulting in slippage of the date of entry into force of the CWC, they should not be characterised in negative terms.

In our view, there has been very respectable progress in the PrepCom, especially when taking into account the complexity of the range of issues to be resolved, many of which were not explored in any significant detail during the Geneva process. We are confident that these outstanding issues can be resolved in a reasonable manner. Against this background, the rate of ratifications can be interpreted more correctly as not an indication of lack of interest in the CWC or a consequence of the PrepCom not yet having resolved all of the outstanding issues, but rather an indication of the longer than anticipated time required for prospective States Parties to the CWC to undertake the necessary measures to prepare for

²³ *Chemical Weapons Bulletin*, (24), Jun. 1994, p. 8.

²⁴ *Chemical Weapons Bulletin*, (23), Mar. 1994, p. 21.

²⁵ Supported by comments made during informal discussions with a significant number of Signatory States "in the corridors" of such meetings.

domestic implementation of the Convention obligations prior to ratification. Clearly, more important than the actual date of entry into force, is the care with which Member States are approaching their national implementation obligations.

In conclusion, it is still difficult to predict when the CWC will enter into force, but reports from Signatory States on their progress in ratification suggests that there will be a rising trend in the number of ratifications in the latter part of 1994 and the early part of 1995, and that entry into force is likely some time between the latter part 1995 and mid-1996. Based on the complexity of the PrepCom process and the detailed requirements for national implementation, it is now clear that it would not have been realistic to expect an earlier date.