# WHAT POLICY FOR DISABLING CHEMICALS?

With the Chemical Weapons Convention nearing completion, a long-neglected but crucial question of scope is coming to the fore. Is the treaty to be a complete ban, prohibiting all forms of toxic warfare? Or is it instead to be a partial ban, permitting toxic chemicals of the kinds used for domestic law-enforcement or riot control also to be used as a means of warfare?

There is no disagreement about allowing such domestic uses. They are explicitly permitted in the current draft treaty (CD/1116) where, in regard to toxic chemicals, Article II states that purposes not prohibited under the Convention include "Industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes, domestic law enforcement and riot control purposes". The question is whether the treaty should be made more permissive, allowing chemicals that are used for domestic law-enforcement and riot control also to be used non-domestically, possibly even as war-fighting weapons.

Positions taken on these dual-use chemicals have differed. As to the 1925 Geneva Protocol, most countries expressing themselves have held that all toxic chemicals, including those used for domestic riot control, are prohibited in warfare. Since the time of the Vietnam war, the United States and Australia have taken the opposite view. Current US policy for the Chemical Weapons Convention is to exempt entirely from the definition of chemical weapons, and consequently from all provisions of the treaty, "those chemicals which are not super-toxic lethal, or other lethal, chemicals and which are used by a Party for domestic law-enforcement and riot control purposes" (CD/500 of 18 April 1984). There is a similar exemption, listing the agents CN, CS and CR as examples of the chemicals to be exempted, in the draft treaty which Australia has just proposed (CD/1143 of 12 March 1992).

Police gases extensively used in war include ethyl bromoacetate and congeners in the first World War; agent CN in Ethiopia (from December 1935), China (from late 1937) and the Yemen (1963); and agent CS in the Vietnam War and the Iraq-Iran war. In each case, these agents were used mainly or entirely not to avoid the use of conventional firepower but in conjunction with it, as a force multiplier. Moreover, starting in World War I, combat use of such gases preceded every significant outbreak of lethal chemical warfare.

The question of scope is made all the more important by the accelerating pace of molecular biology and pharmacology. Using modern biotechnology, law-enforcement and military communities are currently attempting to develop relatively non-lethal but exceedingly potent agents that can disorient or immobilize. A current objective of military research, for example, is to develop relatively non-lethal chemicals with extreme paralytic toxicity for use in disabling chemical weapons. Such chemicals have already found occasional application in domestic law-enforcement, as when police forces have used immobilizing dart-guns.

While few if any countries actually want a treaty that opens the door to the unrestricted use in war of existing and future disabling chemicals, negotiators in Geneva are only now coming to grips with the problem, mainly in the consultations entrusted to the Friend of the Chair on Technical Issues. These discussions are serving to delineate a graded spectrum of provisions,

## News Chronology November 1991 through February 1992

*What follows is taken from the Sussex-Harvard rolling CBW chronology. The intervals covered in successive* Bulletins *have a one-month overlap in order to accommodate late-received information. The basic chronology, which is continuously updated, is fuller and provides complete citations of sources. For access to it, apply to Julian Perry Robinson at the Science Policy Research Unit, University of Sussex, Brighton, BN1 9RF, England.*

**2 November** In Belgrade the head of the Medical Department of the Yugoslav Army, Lt-Gen Vladimir Vojvodic [see 27 Sep], tells a news conference that six federal Yugoslav soldiers hospitalized after fighting in the Vukovar region two days previously, had been affected by "volatile non-lethal poison gases, producing only temporary disability". {Tanjug 2 Nov in FBIS-EEU 4 Nov; Radio Belgrade 31 Oct and Tanjug 31 Oct in BBC-SWB 2 Nov}

Later in the day there are further allegations [see 2 Oct] of Croatian chemical warfare. {Radio Belgrade 4 Nov in BBC-SWB 6 Dec}

**3 November** In Iraq, the sixth UN chemical inspection [see 22 Oct], UNSCOM 20, comes to an end. Its mission had been to inspect the six declared storage sites distant from those already inspected in the Baghdad region. The team inventoried holdings and arranged for transportation of those chemical munitions that

defining permitted uses of disabling chemicals under the Chemical Weapons Convention. Among these, ranging from highly restrictive to completely permissive, are:

1) *Limitation of permitted purposes to domestic law enforcement and riot control.* This is the provision of the current draft treaty, as stated in Article II. Non-domestic uses, including use as a means of warfare, are thereby prohibited.

2) *Extension of permitted purposes to include specified uses in areas under the clear and direct control of the using state.* This could permit uses similar to riot control, including control of rioting prisoners of war and the protection of facilities, equipment and personnel from civil disturbances, terrorists and paramilitary organizations in areas under the clear and direct control of the using state. None of these uses would appear to constitute the "use in war" proscribed under the Geneva Protocol.

3) *Further extension of permitted purposes to include specified limited uses in areas not under control of the using state.* Such purposes might include the rescue of escaping prisoners, downed aircrews and passengers, and use in situations where civilians are being used to mask or shield attacks in a war zone. While some applications in this category may not be "use in war", others clearly are. The question here is whether the risk of further escalation does not outweigh such limited military benefit as these uses might bring. Use of disabling chemicals on intermingled combatants and civilians in a war zone, for example, could lead to or become the excuse for unrestricted employment in urban warfare.

4) *Total exemption from the Convention.* This is the approach taken in CD/500 and CD/1143. It would remove the exempted chemicals and associated munitions from all prohibitions of the treaty regarding production, possession, transfer and use, including unrestricted use in war.

Under each of the first three approaches above, existing stocks of CN, CS, CR and other such chemicals and corresponding munitions intended for permitted purposes, as long as the types and quantities are consistent with such purposes, could be retained and need not be declared. Any other stocks of such agents and munitions in existence when the treaty enters into force would have to be declared and destroyed in accordance with Articles III and IV.

Surely, neither the United States nor Australia (nor any other country) seeks to legitimize the unrestricted use in war of riot control and law enforcement chemicals. Indeed, US national policy, set forth in a 1975 presidential Executive Order, restricts first use in war of such agents by US forces to specific limited military purposes encompassed in 2) and 3) above.

Somewhere in the spectrum of possible permitted purposes there must be a formulation, short of permitting use as a means of warfare, that the great majority of states can accept as a uniform standard in a treaty designed to benefit all its parties. Total exemption, however, would risk weakening the international norm that restrains use of chemical and biological weapons generally. As society enters the era of biotechnology, the greatest care is needed to ensure that this vital norm is preserved and strengthened.

--The Editors