

Hyping Chinese Espionage

With little evidence and flawed logic, the Cox Report has concluded that China, exploiting purloined U.S. nuclear weapons design information, can now match U.S. nuclear weapons technology and emerge as a major nuclear threat to the United States. The report, presented in three lavishly illustrated volumes suitable for coffee table display, is clearly designed to hype a new Chinese nuclear missile threat rather than objectively examine the extent and implications of alleged Chinese nuclear espionage. Whatever the truth about the extent of the espionage, this extreme worst-case assessment is grossly misleading and threatens rational U.S. diplomatic and defense policy toward Beijing.

The report's case rests primarily on a reference in a classified Chinese document to certain aspects of the design of the Trident D-5 missile's W-88 thermonuclear warhead, which indicates Chinese access to classified information from an unidentified source. However, Cox Committee member Representative John Spratt (D-SC), in an act of considerable political courage, has revealed the paucity of evidence supporting the report's stark conclusions and pointed out that the Cox Committee had no evidence that the Chinese had actually obtained any blueprints or detailed engineering specifications on the W-88 or any other U.S. thermonuclear weapon. This important conclusion was also reached by the intelligence community in its damage assessment of the material presented in the classified version of the report.

While China would undoubtedly profit from the details of the W-88, Beijing would pay a steep price to make a "Chinese copy" of the sophisticated W-88, which does not match China's strategic requirements or its existing technology infrastructure. The W-88 is carefully designed to fit inside the D-5's slender reentry vehicle, which is necessary to achieve extremely high accuracy against hard targets. The Chinese ICBM force, numbering only 20 missiles, is clearly intended as a minimal deterrent against city targets where high accuracy is irrelevant. The report fails to recognize that China, with a substantial nuclear weapons program and 35 years' experience since its first test in 1964, already has the ability to develop small thermonuclear warheads based on its own technology. Such weapons would be suitable for China's anticipated, more survivable mobile ICBM or for future MIRVed missiles if it decides to develop them. Consequently, even if Beijing did obtain the detailed blueprints for the W-88, which is pure speculation, this would not change the limited Chinese nuclear threat to the United States that has existed for almost 20 years.

The report's feigned outrage with China's alleged efforts to steal U.S. nuclear secrets is an exercise in naivete or hypocrisy by members of Congress, who approve some \$30 billion annually for U.S. intelligence activities and press for the increased use of spies. At the same time, while recognizing the pandemic nature of espionage, one cannot tolerate violations of trust by persons in sensitive positions or inadequate security practices that facilitate such actions. The report has created a cottage industry of recommendations on how to solve this difficult problem. But the answer certainly does not lie in creating insulated, Soviet-style nuclear cities where many of the brightest U.S. scientists would not work.

U.S.-Chinese relations have been dealt a serious blow by the report's implicit message that the United States should not do business with a country that presents a serious nuclear threat to U.S. security and engages in espionage against the U.S. nuclear establishment. However, there is no reason to believe China is any more of a threat today, or will be in the foreseeable future, than it has been for many years; and the charges of espionage, if true, are only the latest manifestation of an international environment where gentlemen read each other's mail whenever possible. Since President Nixon's opening of relations with China, every U.S. president has sought to improve U.S.-Chinese relations. In the interests of U.S. security, this policy should continue to be pursued on its own merits and not be undercut by hyped assessments of the Chinese nuclear threat or espionage activities.

If the Cox Committee is as concerned about Chinese espionage as it professes, it is puzzling that it chose to reject Spratt's proposal to recommend ratification of the CTB Treaty, which would prevent future Chinese tests from exploiting alleged purloined information. Experts agree that no rational state would risk producing thermonuclear weapons based on information, including even blueprints and full technical specifications, obtained from another state without tests, and would not rely on another country's computer codes to simulate the detonation of a device as a surrogate for actual testing. The U.S. Senate now has the opportunity and responsibility to correct this glaring omission by promptly ratifying the test ban treaty, which Senate Foreign Relations Committee Chairman Jesse Helms has held hostage—to advance his own agenda—for nearly two years.

—Spurgeon M. Keeny, Jr.

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The CWC at the Two-Year Mark: An Interview With Dr. John Gee



In the little more than two years since it entered into force on April 29, 1997, the Chemical Weapons Convention (CWC) has become one of the most widely adhered to arms control treaties in the world. The Organization for the Prohibition of Chemical Weapons (OPCW), the body established to oversee implementation of the convention, has been working steadily to fulfill the CWC's extensive verification and inspection mandate and push for treaty universality.

In late May, Dr. John Gee, OPCW deputy director-general, was appointed acting director-general during a short leave of absence by José Bustani. Dr. Gee, a 54-year-old Australian career diplomat with extensive experience in arms control and degrees in chemistry, has played the principal role in the day-to-day administration of the treaty Secretariat and served as the chief policy advisor to Mr. Bustani.

Born in Launceston, Tasmania, Dr. Gee joined the Australian Department of Foreign Affairs in 1971 and served in various missions in Cairo, Moscow, New Delhi and Bangkok. He began his involvement in chemical weapons disarmament issues with the Foreign Service in 1982, and has continued amid other assignments. From May 1991 to April 1993, Dr. Gee was a member of the UN Special Commission on Iraq (UNSCOM), serving in 1991 as UNSCOM's coordinator of the CBW Working Group. In April 1993, he was appointed director of the Verification Division of the OPCW's Provisional Technical Secretariat, and deputy director-general in May 1997.

On May 28, *Arms Control Today* editor Tom Pfeiffer spoke with Dr. Gee about the first two years of the convention's operation and the road ahead. The following is an edited version of their conversation.

Arms Control Today: What is the current status of the CWC and what are the accomplishments of the OPCW during its first two years of operation?

John Gee: The Chemical Weapons Convention is built on four main pillars: first, the destruction of existing stockpiles and chemical weapons production capacity and the verification of this process [Articles III, IV and V]; secondly, non-proliferation [Article VI]; thirdly, assistance and protection [Article X]; and fourthly, international cooperation in the peaceful uses of chemistry [Article XI]. All four are interrelated. Because of the very strict and demanding timelines in the convention in relation to the first two in particular, we have had to devote much more attention since entry into force to the disarmament and non-proliferation pillars. Our programs in the Article X and XI areas are, however, now also starting to be developed and to gather momentum.

As of today, Friday, May 28, which is 759 days after entry into force, we've completed 475 inspections at 278 sites in 29 states-parties, for a total of just over 30,000 inspector days since we commenced inspection operations almost exactly two years ago, on June 1, 1997. We have carried out all of the initial inspections of the chemical weapons-related facilities that were declared to us by three possessor states at entry into force, and in January 1998 by the Russian Federation, which ratified the convention in November 1997.

We have carried out initial inspections at 33 chemical weapons storage sites and 63 chemical weapons production facilities or former chemical weapons production facilities, and we have undertaken routine re-inspections since then. We have a continuous monitoring presence at three operating chemical weapons destruction facilities in the United States. We have also monitored, as required, destruction operations at five non-continuously operating sites in the United States, and we have begun monitoring destruction operations in another state-party, which has just started destroying its chemical weapons. We have commenced industry inspections. We have carried out all the initial inspections of the declared Schedule 1 facilities, and we are well on the way to completing the initial inspections of declared Schedule 2 facilities. As you know, all initial inspections of Schedule 2 facilities have to be carried out, if possible, within the first three years after the entry into force of the convention. We currently have approximately 120 declared Schedule 2 facilities, and we have carried out the initial inspections at just over 100 of them. We have also begun the inspection of Schedule 3 facilities. So the verification regime is proceeding very satisfactorily at the moment.

ACT: What have been the priorities for the OPCW leading to the two-year mark in terms of establishing the inspection regime?

Gee: From the Secretariat's point of view, we have learned a number of things. The first of these is that multilateral verification carried out by a multinational agency like ours not only works but works well. We have an inspectorate of approximately 200 inspectors from over 50 different nationalities. They underwent a very thorough five-month training course before they joined the organization. I think that has paid off in terms of making them good inspectors and well equipped to carry out their task.

The second element that we've learned is that a cooperative approach yields considerable dividends. We see our mandate as being to assist the states-parties to demonstrate their compliance with the provisions of the convention. We do not try to adopt a hostile or confrontational approach to our inspections. Rather,

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our approach is simply to assist the state-party to ensure that all the facts that have to be laid out on the table are addressed. That's not to say that problems don't arise from time to time in the course of inspections—they do. But in the great majority of cases they are sorted out pretty quickly. So I think that's been a considerable achievement. Also, our inspectorate is an independent body. All of our inspectors are international civil servants on fixed-term contracts to the OPCW; they are not experts on loan from member-states.

From the point of view of the member-states, I think they too have learned something. There was a great deal of concern prior to entry into force, particularly from states-parties that had never had inspections before, about the intrusiveness of the on-site inspection process, particularly given the provisions of the convention, which are very stringent indeed. A lot of them have now concluded that the experience isn't as bad as they thought it might have been. So that in itself has also been a helpful development.

ACT: Have there been any surprises so far in the initial declarations that have been received by the OPCW?

Gee: There have been one or two small surprises. But what is significant is the fact that the declarations have been made and the key parts of each state-party's declaration are available to all other states-parties. That, I think, has been a considerable confidence-building measure because it has, within the strict confidentiality provisions of the convention, enabled states-parties to see what other states-parties have declared and, if necessary, to seek clarification. This process has answered a lot of questions that were out there prior to entry into force. Frankly, prior to entry into force, before states-parties made their declarations, all that other countries had to go on were press reports and intelligence estimates and so forth. The whole process of having declarations available to other states-parties has been a great success and a very substantial confidence-building measure.

ACT: What is your assessment of the current destruction timetable for the CWC? Do you have a sense now of how realistic the timetable really is?

Gee: There are four declared chemical weapons possessors, all of which are under a treaty obligation to destroy their stockpiles by April 29, 2007. Now, for the possessors of the two smaller stockpiles, which are India and another state-party, their stockpiles are modest in total size by comparison with those of the Russian Federation and the United States. In my view, there's no reason at all why they shouldn't be able to meet the timelines that are set out in the convention.

For the U.S., and more so for Russia, the question is a little more difficult to answer but for different reasons. It's more difficult to answer given the size and complexity of the problem in both cases, and because there are important differences between the two cases. In the U.S., the destruction program is by now very firmly established and destruction is proceeding on the basis of the baseline technology of high-temperature incineration. There are three destruction facilities already in operation and there are a number due to come on stream within the next few years. We are told that by the end of this year, 22 percent of the U.S. chemical weapons stockpile will be destroyed. And, of course, the studies on alternative technologies for destruction required

by the Congress are also now well underway. As far as I can see there is no inherent reason why the United States shouldn't meet the destruction timelines. The big question here, of course, is whether there may be any new environmental or health and safety concerns that might arise. I'm not really in a position to comment any further about that. But provided there are no unexpected surprises, there's no reason at all why the U.S. shouldn't meet the timelines in the convention.

In the case of the Russian Federation the situation is much more complex. The Russians have identified and decided upon the technologies that they will use to destroy their chemical warfare agents. They now have plans well underway for the construction of facilities at three of their sites: at Gornyi, Shchuchie and Kambarka. However, these only represent about one-third of the total Russian stockpile, and plans for the destruction operations at the other four sites are much less advanced. The Russians have many problems to overcome, but the principal problem is a financial one. It's now very clear that if they are to meet destruction timelines, they're going to require substantial foreign assistance. I know some of this has already been forthcoming from countries in the European Union and the United States, but the Russians are going to require a lot more assistance than they have received so far or that appears to be currently in the pipeline.

Another problem that is perhaps not quite appreciated is the problem of the abandoned chemical weapons in China. Here the problem is that they are mostly buried, scattered in a wide number of different locations, and there are differences of view as to precisely how many there are. The estimates vary anywhere between 700,000 to 2 million individual rounds. All of these are five decades old, most of them are in pretty poor condition and they all have to be treated individually. So destroying all of that within the timelines of the convention is also likely to be a problem. The Chinese and Japanese have been in consultation on this issue for some time now, and I understand that they are close to agreeing on an approach to resolve it.

ACT: Have all the possessor states begun their required destruction programs at the two-year mark?

Gee: The convention requires that destruction of chemical weapons based on Schedule 1 chemicals should start not later than two

years after the convention enters into force for the state-party. Destruction of unfilled chemical munitions must start not later than one year after the state-party joined the OPCW. For three states-parties, the two-year timeline is already passed; for the fourth—Russia—it has not. Two states have started destruction. The other two are close to starting. It depends on how you define "start." Does start constitute the start of the construction of the destruction facilities or does start actually constitute the start of destruction of munitions and agent? If the latter, then at least one hasn't made it. If the former, then I think all of them have made it. The important thing is that the convention requires that you have to get rid of 1 percent of the stockpile within three years after entry into force—April 29, 2000. I think they can all achieve that. Whether they will is another matter, but at the moment they're all well positioned to be able to do that.

ACT: What role has the OPCW played in addressing the problem of abandoned chemical weapons so far?

Gee: With regard to China and Japan, those consultations have been a bilateral effort. They have kept us informed in broad terms of progress, but essentially that's been a process that they have worked on themselves. Our involvement with the abandoned chemical weapons in China has been to verify the declarations that have been made by the Chinese and the Japanese. We have carried out nine abandoned chemical weapons inspections in China at nine sites since the end of 1997. The OPCW Executive Council has adopted a decision on the cost of verification of abandoned chemical weapons, which is now subject to adoption by the Conference of States-Parties. In addition, the Chinese and the Japanese have also reached agreement on how Japan will reimburse China for the costs of the Chinese national escorts teams accompanying OPCW inspectors.

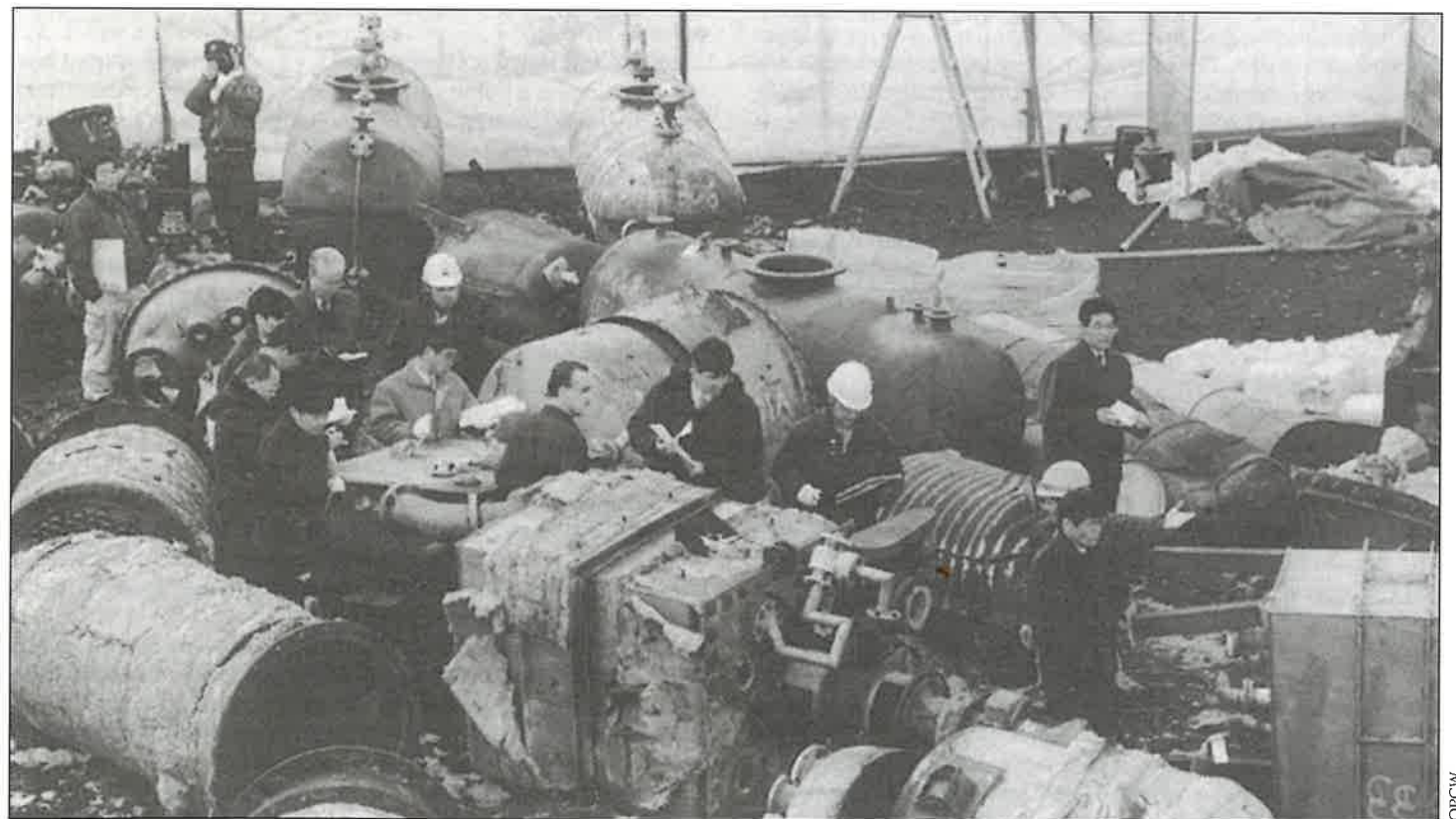
We assist them with the processing of such reimbursements. It would be fair to say that the OPCW is playing a facilitating role in this aspect.

ACT: Are there other states-parties that now face the problem of abandoned chemical weapons? Can the experience of China and Japan apply to these cases?

Gee: By the end of last year six states-parties—Belgium, France, Germany, Italy, Japan and the United Kingdom—submitted declarations of old chemical weapons on their territories, while three states-parties—China, Panama and Italy—submitted declarations of abandoned chemical weapons on their territories. Japan notified the OPCW of its abandoned chemical weapons in China.

There are substantial numbers of old chemical weapons that were used during World War I, albeit in a very limited theater, basically northern France and Belgium. Germany has also declared the presence of old chemical weapons on its territory. During World War II, enormous numbers of chemical munitions were produced and stockpiled and transported around the world and in most cases never used. But quite often at the end of World War II they were disposed of *in situ* rather than taken back to the states that produced them. Sometimes they were dumped at sea, sometimes they were burned in open pits, but sometimes they were just simply forgotten about. Unfortunately, the latter pop up from time to time, as happened, for example, with some U.S. chemical munitions dating from World War II, which were discovered in the Solomon Islands in 1991.

ACT: The CWC destruction process won't include those munitions that have been dumped into international waters. Do you have any idea about the scope of that problem?



A team of OPCW inspectors in Kamikuishiki-mura, Japan, verifies the destruction of CW facilities constructed by the religious sect Aum Shinrikyo, which released nerve gas in a Tokyo subway in 1995. The OPCW has conducted 475 inspections in 29 states-parties since the CWC's entry into force.

Gee: Only in very general terms. We have some idea of the dimensions of the problem but I would not say that we have an accurate idea, basically because there's no requirement for the OPCW to become involved in them. The decision was taken that once they were dumped at sea essentially that was it—they were disposed of. And provided they're not dumped after January 1985, they do not fall under the purview of the convention.

ACT: *There are many countries that signed the CWC but have not yet ratified the convention. What do you believe are the reasons they have not yet ratified?*

Gee: When you look at the number of states-parties that we have and the number of signatory states, I think our convention has been very successful indeed. We will soon have 125 states-parties; Estonia ratified just two days ago, bringing the total to 125. We have a further 45 signatory states. When you add those two figures together you have 170 members of the international community that have either signed or ratified the convention. It is important to re-

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member that under the Vienna Convention on the Law of Treaties, signatories are bound not to undercut a treaty's provisions until they give formal notification that they don't intend to ratify. From that perspective then, our convention becomes the most widely adhered to arms control-disarmament convention after the nuclear Non-Proliferation Treaty [NPT]. I think only the Biological Weapons Convention [BWC] comes close in terms of the number of states that have signed and ratified. That's a pretty impressive achievement for an agreement that entered into force only two years ago. When you consider how long it took to get the membership of the NPT that we have today—over two decades—we've managed to achieve much the same result in two years. In my view, this is due to the universal character of the convention and also, of course, of the times in which we live and the desire of the international community to eliminate chemical weapons.

I want to assure you that we assign a very high priority to achieving universal adherence to the convention. In fact, the first official visit that the director-general and I made together, after the entry into force of the convention and the establishment of the OPCW was, in fact, in September 1997 to two non-states-parties—Russia and Ukraine. They were both signatory states at that stage but they hadn't ratified, and I'm pleased to say that both of them have since done so. As for the states that have signed but not yet ratified, we continue to take every opportunity within our resource constraints to talk to them to persuade them to ratify. Our resources are not unlimited, so we have to prioritize. We are also in contact with the other 23 states that have neither signed nor ratified.

We carry out our contacts with all non-states-parties through a number of channels. When the director-general goes to New York each fall for the meetings of the UN General Assembly's First Committee, he takes advantage of his presence there to talk to the rep-

resentatives of the non-states-parties. We also follow up with energetic direct contact with representatives here in The Hague and also in capitals. This approach has also been successful, most recently in the case of Sudan. We spent a lot of time talking with the Sudanese here in The Hague. It was successful also in Nigeria's case. I visited Kazakhstan and Malaysia last year and they both assured me that they are committed to the principles of the convention and politically there is no problem. It's just a question of bureaucratic delay and assigning it the necessary priority. Our External Relations Division and our International Cooperation and Assistance Division run a number of seminars on an annual basis in various countries and regions of the world, and we invite both signatory states and non-signatory states.

One of the things that will assist universality is seeing the convention implemented successfully and realizing that there is something in it for them. Many countries say: "Yes, we're committed to the goal of the elimination of chemical weapons, but we don't have any and therefore membership in the OPCW is not as high a priori-

ty for us as some other things are." I think what we have to do and what we try to do is to persuade them of the benefits of joining the convention—which include the right to receive assistance if they are attacked or threatened with attack by chemical weapons and to participate in our international cooperation programs—and also outline to them the problems they may face by not joining. As you know, the convention has certain restrictions in relation to trade in chemicals that appear on the schedules.

On the second anniversary of the convention's entry into force [April 29, 1999], the director-general did two things. First, he published in the *International Herald Tribune* a list of states which had signed but not yet ratified the convention and a list of states which had yet to accede to the convention. That had not been done in a public forum before. So there it was in black and white for the international community to see who was a state-party and who wasn't. The second thing he did was to write a letter to each of the non-states-parties—that is, to the signatory states and the non-signatory states—indicating to them that one year from now states-parties would have to implement sanctions against them in relation to trade in chemicals that appear on Schedule 2 of the convention. So, in some cases, there will be an economic cost by not becoming a state-party. It's clear from the reporting by states-parties of their trade in chemicals that appear on Schedules 2 and 3 of the convention that a number of non-states-parties import chemicals on the Schedules from states-parties. In relation to the chemicals on Schedule 2, that trade is going to have to be cut off in the year 2000. This is a point that we emphasize to them as well.

Finally, when we visit states-parties, we do ask them, where possible, also to talk to the states that haven't yet ratified. We try to work with states-parties that may have particular influence with non-states parties. For example, we asked the Brazilians for their assistance in talking to the Portuguese-speaking states in Africa that have not yet either ratified or acceded to the convention, and France for assistance with the francophone non-states-parties. It's a joint effort involving both us and the states-parties, and it's actually been quite successful. As I noted a moment ago, when the convention entered into force, we had 87 states-parties; we now have 125. That's a 40 percent increase in membership in the last two years, which is indicative of the attractiveness of the convention and the efforts that we and the states-parties put into persuading non-states-parties to join the OPCW.

ACT: *Sudan acceded to the convention only four days ago. What impact do you believe Khartoum's accession will have on other non-signatories, particularly in the Middle East and North Africa?*

Gee: I hope it will have a very significant effect. In relation to North African states, there are only two that are now left out: Libya and Egypt. In the Middle East region more generally, we're missing Libya; Egypt; Israel, which has signed but not ratified; Syria; Lebanon; and of course Iraq. So Sudan's accession to the convention actually is a very significant step in that regard, and I hope it will persuade the others to do likewise. We've had some approaches from the Libyans in the last months, particularly since the arraignment of the Lockerbie bombing suspects, so we are hopeful that we may be able to persuade them to accede soon as well. We have also spent some time talking to the Israelis, but I think we all realize that the new government will require some more time yet before it's ready to start addressing these questions in detail.

ACT: *After the CWC enters into force for Sudan [30 days after it deposits its instrument of ratification] will the OPCW have any role to play in helping resolve the current dispute between the United States and Sudan regarding the chemical facility that was destroyed by the U.S. last year?*

Gee: It could if both states-parties agree that it should. Until now, of course, both have been addressing the fallout from this bilaterally or through other forums, such as the Sudanese attempts to involve the United Nations last year. But the mechanism is always there if they wish to use it. It's unfortunate that Sudan was not a state-party at the time of the incident, because the fact-finding and consultation provisions in the convention would have provided the United States with means other than the one it chose to address its concerns about Sudan's perceived chemical weapons capabilities.

ACT: *Had Sudan been a state-party at the time, what would have been the process that would have allowed the U.S. to quickly address its concerns?*

Gee: The convention provides a number of possibilities. The first one is to approach the country concerned directly. This is provided for in Article IX of the convention, which deals with challenge inspections. It's widely but inaccurately believed that Article IX deals only with challenge inspections, but, in fact, its first sections cover consultations, cooperation and fact-finding and set out procedures for requesting clarification. These can be done bilaterally or through the Executive Council. Only in Paragraph 8 does Article IX begin to address in detail challenge inspection. So while it is of course open to a state-party to request a challenge inspection without right of refusal, in order to resolve concerns about compliance, the convention provides for the possibility of a process of clarification, consultation and fact-finding before the challenge-inspection mechanism is invoked should a state-party wish to exercise those options before requesting a challenge inspection. In short, all options are there should any state-party wish to exercise them in relation to another state-party.

ACT: *During the first two years of the convention's operation, has any state-party requested a challenge inspection under Article IX?*

Gee: No, it has not.

ACT: *Does that surprise you?*

Gee: No, frankly, it doesn't. I think the fact that states-parties have access to the declarations of all other states-parties has helped to

resolve a lot of questions that were out there previously. It hasn't resolved all of them. But a number of states-parties have approached other states-parties directly to ask questions about their declarations, and that's a very healthy process. I think what that means is that the convention is actually working by functioning as a confidence-building measure, and it's giving states-parties the opportunity to clarify uncertainties with other states-parties. So far it's not clear to me that any state-party has actually seen the need to invoke the challenge-inspection provisions of the convention. And, of course, any state-party that has not itself fully complied with all the declaration requirements under the convention is likely to think twice before it launches a challenge inspection on any other state-party.

ACT: *What is the distinction between the clarification process we just discussed and the clarification mechanism through the OPCW's Executive Council? Has the latter mechanism been used so far by any state-party?*

Gee: Paragraph 2 of Article IX provides for states-parties to approach other states-parties directly. Paragraphs 3, 4 and 5 take the process

CWC MEMBERSHIP (As of May 31, 1999)

States-Parties (122):

Albania, Algeria, Argentina, Armenia, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia & Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Chile, China, Cook Islands, Costa Rica, Cote d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guinea, Guyana, Holy See, Hungary, Iceland, India, Indonesia, Iran, Ireland, Italy, Japan, Jordan, Kenya, Kuwait, Laos, Latvia, Lesotho, Lithuania, Luxembourg, Macedonia, Malawi, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand, Niger, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russia, St. Lucia, Saudi Arabia, Senegal, Seychelles, Singapore, Slovak Republic, Slovenia, South Africa, South Korea, Spain, Sri Lanka, Suriname, Swaziland, Sweden, Switzerland, Tajikistan, Tanzania, Togo, Trinidad & Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States, Uruguay, Uzbekistan, Venezuela, Vietnam, Zimbabwe

Entry Into Force Pending (3):

Estonia, Nigeria, Sudan

Non-Ratifying Signatories (46):

Afghanistan, Azerbaijan, Bahamas, Bhutan, Cambodia, Cape Verde, Central African Republic, Chad, Colombia, Comoros, Congo, Cyprus, Djibouti, Dominica, Dominican Republic, Gabon, Grenada, Guatemala, Guinea-Bissau, Haiti, Honduras, Israel, Jamaica, Kazakhstan, Kyrgyzstan, Liberia, Lichtenstein, Madagascar, Malaysia, Marshall Islands, Micronesia, Myanmar (Burma), Nauru, Nicaragua, Rwanda, St. Kitts & Nevis, St. Vincent & Grenadines, Samoa, San Marino, Sierra Leone, Thailand, Uganda, United Arab Emirates, Yemen, Zaire, Zambia

Non-States-Parties (22):

Andorra, Angola, Antigua & Barbuda, Barbados, Belize, Egypt, Eritrea, Iraq, Kiribati, Lebanon, Libya, Mozambique, North Korea, Palau, Sao Tome & Principe, Solomon Islands, Somalia, Syria, Tonga, Tuvalu, Vanuata, Yugoslavia

to the next step if the state-party wants to do so. If it feels that this process of bilateral discussions has not yielded all the answers, it can then formally request that the Executive Council assist in clarifying any matters. So far that process hasn't yet happened either. I think it would be fair to say that what we're seeing at the moment is a process that is confined to individual states-parties approaching other states-parties directly. Now, it's not beyond the bounds of possibility that some states in the future could approach the council and ask it to attain clarification, but so far it hasn't happened.

"It's very important, as I mentioned earlier, that the U.S. provide us with its industry declaration as soon as possible so that the issue of non-compliance can be removed, because it's threatening to become a very divisive issue."

ACT: During the Third Session of the Conference of States-Parties [November 16-20, 1998], some delegations had expressed concern over the non-compliance of states-parties in submitting their initial declarations or submitting incomplete declarations. How many states now do you consider to be in non-compliance and what is the OPCW doing to correct that?

Gee: The current situation is that approximately 25 percent of our states-parties still have to make the initial declaration required under Article III, which covers holdings of chemical weapons, chemical weapons production facilities, old and abandoned chemical weapons, CW development facilities and riot control agents; and Article VI, which covers portions of the commercial chemical industry. There are a number of other declarations or notifications that are required as well. For example, states-parties are required to inform the OPCW of their national authority; of the designated point of entry; of a special diplomatic clearance number for non-scheduled flights and other things. Here the record is even worse, if that's the right term. Both the conference and the Executive Council have expressed their concern about this and have called upon all of the states that have not yet made declarations to do so as soon as possible. They have published, for themselves, a list of states-parties that have not yet made these declarations. We have been in touch with all of them to urge them to make the declarations as soon as possible. We have offered assistance to do so. We have established a network of "declaration experts"; that is, experts from the Secretariat and states-parties in various regions around the world who can be sent on request to assist states-parties with their declarations. A number of states-parties have already requested, and received, such assistance.

Clearly, from a political point of view it's undesirable to have a situation where approximately one-quarter of our states-parties have not made the declarations required of them. On the other hand, most of the countries would, on any objective yardstick, not have very much, if indeed anything, at all to declare anyway. In a functional sense, the consequences might not be all that serious. But in a political sense, of course, they are, and that's most unfortunate.

As to who's made an incomplete declaration, well, it's not always clear what an incomplete declaration is. But unfortu-

nately the United States is the one country that has clearly not yet made a complete declaration because it hasn't yet provided us the required declaration for its chemical industry. Anyway, we're very hopeful that that process will be completed soon. The U.S. implementing legislation was passed last October, and we have been informed that the requisite executive order is likely to be signed by President Clinton sometime in the near future. That should pave the way for the U.S. to make its industry declarations in the very near future, which would be a significant boost to the convention.

ACT: From the OPCW's perspective, what exactly is the nature of the problem with the U.S. implementing legislation? What effect, if any, has it had on the implementation of the convention?

Gee: There are three problems, two I regard as substantial. The third is also important but perhaps not in quite the same category as the other two. The first one is Condition 18, under which the United States Senate decided that no chemical sample collected by the

OPCW in the course of its inspections activities in the United States would be taken out of the country for analysis at our network of designated laboratories. The second one is what I understand to be, in effect, a right of presidential veto on a particular challenge inspection for national security grounds. Now the convention is quite clear on challenge inspection: there is no right of refusal. So that condition would appear to me, at least *prima facie*, to be contrary to the provisions of the convention.

The problem with the sample analysis issue is not so much one of strict incompatibility with the language of the convention because the convention talks about off-site analysis. But it was always understood during the work of the Preparatory Commission here that off-site meant, in effect, out of country, and all of our analytical procedures and the work that has gone into setting up our network of designated laboratories in a number of states-parties to carry out analysis of samples taken off-site was based on that premise. While no other country has followed the United States in enacting such provisions, a number of other states have indicated to us informally that if these things remain, then they may well themselves take similar action.

The third problem with the U.S. implementing legislation is in relation to the low concentration limit set for the declaration of Schedule 3 chemicals, which is 80 percent. While there is no consensus among member-states as to what the limit should be, most have opted for a much lower figure, in the vicinity of 20 to 30 percent. It is hard to see how the figure of 80 percent could be considered "low."

ACT: So no other state-party has placed unilateral conditions on its own implementation?

Gee: Not to my knowledge. Some states have hinted informally to us that they've contemplated doing so, but to my knowledge so far nobody has done that.

ACT: How would the OPCW deal with the issue of other states-parties declaring unilateral conditions in their implementation of the convention?

Gee: That's not clear at this stage. There has not been a great deal of discussion on the issue within the OPCW's policy-making or-

gans. I think a number of people are frankly hoping that it will go away. But it's hard to say what the long-term implications would be. So far there haven't been any direct consequences in the practical sense. As I mentioned earlier, we've never had to carry out a challenge inspection anywhere, and we've never had to take a sample off-site or out of country for analysis. It was always envisaged that both of these things—taking a sample out of the country for off-site analysis and launching a challenge inspection—would be a pretty rare occurrence. After all, launching a challenge inspection is an extremely serious business because it risks accusing a state-party of cheating on its obligations or being seen to be doing so. To me, challenge inspection has always been the option of last resort. I have always felt that the likelihood of us taking a sample off-site or the likelihood of us conducting a challenge inspection was not high. But on the other hand, it was always important to have the two provisions there, because the combination of challenge inspection and the right to take a sample out of the country for analysis, in my view, posed a very powerful deterrent to a potential violator. To the extent that the U.S. action appears to be cutting across that, I think the convention has been weakened.

ACT: Although Iraq currently is not a state-party to the CWC, given the uncertain future of the UN Special Commission [UNSCOM], is there a role for the OPCW to play in helping to maintain the UN mandate to monitor and prevent Iraq's acquisition of chemical weapons?

Gee: We believe from a technical and operational point of view we could successfully carry out a mandate if given to us in the chemical area in Iraq. We have carried out nearly 500 inspections in 29 states-parties over the last two years or so. We have 200 very well-trained and experienced inspectors and a good solid headquarters staff to back them. But I think we have to be very clear about what it is that we would be doing if we were required to participate in some way in a future monitoring regime in Iraq.

Hence, our view is that while we have the necessary expertise and experience, we can only become involved in Iraq under very certain and well-specified conditions. The first of these is that Iraq would have to accede to the Chemical Weapons Convention. The second is that the terms and conditions of our participation in Iraq would have to be very clearly defined, understood and accepted by everybody involved, by which we mean the Security Council, our own member-states and, of course, Iraq itself. Finally, we could only accept a role in Iraq using our own methods and procedures in order to safeguard their independence and integrity, and reporting directly to the Security Council.

ACT: Do you have a sense as to the view of member-states for the OPCW to become involved in something other than strictly a treaty-implementation process?

Gee: Some of them have doubts about it. That's become very clear.

ACT: What do you see to be the major issues that will arise at the upcoming Fourth Session of the Conference of States-Parties?

Gee: A major issue will be the membership of the organization: which states have ratified the convention and which are still outside it, and the measures that should be taken to persuade those outside the organization to join it. Another item is likely to be the question of declarations and what more can we do to encourage those who have not yet made their declarations to do so. The conference also will be adopting a number of reports—the Ex-

ecutive Council's report and the annual report of the organization itself. There will be elections to the Executive Council because half the members of the council come up for re-election every year.

One of the most important issues to be considered by the conference will be the organization's program and budget for the year 2000. Here the key issue remaining to be resolved will be the level of resources to be allocated to industry inspections. There are two issues here. First, some states-parties, particularly those with large chemical industries, have been very unhappy with the fact that their chemical industries have had to make declarations and receive a substantial number of OPCW inspections while one of their major competitors, the U.S. chemical industry, has so far not made any declarations or had to receive any inspections at all. So they have imposed restrictions this year on the number of their facilities that we're allowed to inspect until such time as the United States makes its industry declarations and we can inspect U.S. facilities. That's why it's very important, as I mentioned earlier, that the U.S. provide us with its industry declaration as soon as possible so that this issue of non-compliance can be removed, because it's threatening to become a very divisive issue.

The second issue is whether or not inspections of other chemical production facilities, i.e. facilities that produce discreet organic chemicals [DOCs], will start in May 2000. The convention requires, in part IX of the Verification Annex, that the inspections of what have now become termed as DOC facilities will start at the beginning of the fourth year after entry into force unless the upcoming session of the conference of states-parties decides otherwise. We have four categories of chemical industry facilities mentioned in the convention: Schedule 1, Schedule 2, Schedule 3 and DOCs. The OPCW has been carrying out inspections on Schedule 1, 2 and 3 facilities, and now we have to get ready to carry out inspections at DOC facilities as well. These will be the main issues from the verification side.

The Secretariat is also hopeful that the member-states will decide on the staff regulations, including the tenure policy for the staff of the Secretariat. Failure to do so will put the director-general in a very difficult position in relation to the renewal to staff contracts: with the exception of the director-general himself, who has a four-year contract, all staff are on three-year contracts, and the first of these come up for renewal in May 2000. Finally, the other key issue to be discussed will be the types of programs and the level of resources to be allocated in relation to Article X of the convention, which as you will recall from my introductory remarks is the provision of assistance to states that are attacked or threatened with attack by chemical weapons, and to Article XI, which addresses international cooperation and the peaceful use of chemistry. We have, in fact, started to develop quite a well-put together program in this area. Not only is it important for its own sake, but it is one of the keys to bringing about universality as well, because when a number of the developing countries see that the convention actually offers some tangible benefits for them, then they might be that much more persuaded to join. So there's a very clear link between the implementation of the convention in all its respects—in other words, is the verification aspect working properly, is the international cooperation aspect working properly—and universality. If the convention is perceived to be a failure, of course, then there's no incentive for states to join. If, on the other hand, the convention is clearly seen to offer tangible benefits, either in terms of enhanced security or increased assistance and cooperation in the peaceful uses of chemistry or both, then, of course, non-states-parties are that much more likely to ratify or accede to the convention and join the OPCW. **ACT**

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