
Sixteenth Session
(9 - 15 April 1997)

REPORT OF THE COMMISSION

1. Introduction

- 1.1 In accordance with the decision recorded in the Report of its Fifteenth Session (PC-XV/25), the Commission convened its Sixteenth Session in The Hague, the Netherlands, from 9 - 15 April 1997.
- 1.2 In the period under review, Bosnia and Herzegovina and Grenada signed the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction on 16 January 1997 and 13 January 1997 respectively, thus bringing the number of signatory States to 162.
- 1.3 During the same period, seven additional States deposited instruments of ratification with the Secretary-General of the United Nations, as Depositary of the Convention, thus bringing the number of ratifications to 74: Belgium (27 January 1997), Bosnia and Herzegovina (25 February 1997), the Lao People's Democratic Republic (25 February 1997), Niger (9 April 1997), Saint Lucia (9 April 1997), Luxembourg (15 April 1997), and Tunisia (15 April 1997).
- 1.4 The following 94 Member States participated in the Sixteenth Session of the Commission: Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Cameroon, Canada, Cape Verde, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d' Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Greece, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Kenya, Kuwait, Lesotho, Luxembourg, Malaysia, Mali, Mexico, Monaco, Morocco, Myanmar, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Uzbekistan, Venezuela, Zambia, and Zimbabwe.

2. AGENDA ITEM ONE - Opening of the Session

The Session was opened by the Chairman of the Commission, Ambassador Gustavo Eduardo Figueroa of Argentina, at 10:30 on 9 April 1997.

3. AGENDA ITEM TWO - Adoption of the Agenda

On 9 April 1997 the Commission **adopted** the following agenda for its Sixteenth Session:

1. Opening of the Session
2. Adoption of the Agenda
3. Report of the Executive Secretary
4. General discussion
5. Report of the Credentials Committee
6. Report of the Committee on Relations with the Host Country
7. Report of the Committee on Preparations for the First Session of the Conference of the States Parties
8. Report of Working Group A
9. Report of Working Group B
10. Consideration and adoption of the Final Report and Recommendations of the Commission
11. Any other business

4. AGENDA ITEM THREE - Report of the Executive Secretary

The Commission **received** the Report of the Executive Secretary, Mr Ian R. Kenyon (PC-XVI/12 and Corr.1/Add.1*/Add.2). The Report was divided into two parts: Part I provided an overview; and Part II covered the intersessional period from 13 December 1996 to 7 April 1997.

5. AGENDA ITEM FOUR - General discussion

- 5.1 Statements were made by the delegations of Colombia (on behalf of the non-aligned movement), Iran (Islamic Republic of), Pakistan, China, Cuba, Zimbabwe, Malaysia, India, Tunisia, Peru, France, South Africa, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, Japan, Norway, the Netherlands (on behalf of the European Union), Switzerland, Chile (on behalf of the Latin American and Caribbean Group), France (on behalf of the Western European and Other States Group), Pakistan (on behalf of the Asian Group), Tunisia (on behalf of the African Group), Canada, India (on behalf of the non-aligned movement), Germany, the United States of America, Hungary, Cameroon, Slovenia, Algeria, Australia, Chile, Brazil, Indonesia, Mali, Luxembourg, Italy, and Kenya.

Status of ratification

- 5.2 In accordance with subparagraph 5.3 of the Report of its Fifteenth Session (PC-XV/25), the Commission, in the course of the general discussion, reviewed the

status of ratification of the Convention by all possessors of chemical weapons, chemical weapons production facilities or chemical weapons destruction facilities and in this context the status of ratification in the Russian Federation and the United States of America and the implications of that to the universal and comprehensive nature of the Convention.

5.3 The Commission **received** the comprehensive background report on the status of ratification of the Convention prepared by the Executive Secretary (PC-XVI/22*).

5.4 In this context the Commission **recommended** that the Conference of the States Parties at its First Session review this issue in the light of the situation prevailing at that time.

6. AGENDA ITEM FIVE - Report of the Credentials Committee

6.1 The Commission **noted** the Report of the Credentials Committee (PC-XVI/24), which was presented on 14 April 1997 by Mr Gianfranco Tracci of Italy, the Chairman of the Committee.

6.2 The Chairman orally informed the Commission that, subsequent to the adoption of the Committee's Report, communications were received regarding the accreditation of the Representatives of Mali and Uzbekistan. Receipt of formal credentials, in accordance with Rule 3.2 of the Rules of Procedure, is pending.

6.3 Accordingly, at the time of the Sixteenth Session the following 108 Member States had Representatives to the Commission, accredited or provisionally participating in accordance with Rules 2, 3, and 5 of the Rules of Procedure of the Commission: Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Canada, Cape Verde, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Holy See, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Kuwait, Lesotho, Lithuania, Luxembourg, Malaysia, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Myanmar, Namibia, Nepal, the Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Uzbekistan, Venezuela, Zambia and Zimbabwe.

7. AGENDA ITEM SIX - Report of the Committee on Relations with the Host Country

- 7.1 The Commission **noted** the Report of the Committee on Relations with the Host Country (PC-XVI/HC/3), which was presented by the Chairman of the Committee, Ambassador Gustavo Eduardo Figueroa of Argentina.
- 7.2 The Commission **recommended** that, at an early stage, the Director-General confirm the approval of the OPCW to the transfer of ownership of the new OPCW building to RaboFonds GmbH, a 100% subsidiary of Rabobank Deutschland AG, by means of a letter to Peace Building Catsheuvel B.V.
- 7.3 The Commission **decided** to include in its Final Report to the First Session of the Conference of States Parties, in addition to the (Preliminary) Tenancy Agreement for the New Purpose-Built OPCW Building (PC-XIII/18, subparagraph 9.3) and the related Understandings (Addenda 1, 2 and 3, Legal Series, PC-OPCW 1), a recommendation that the Director-General conclude with Paagman B.V. a contract for the supply of office furniture and related equipment required for the new OPCW building, on the basis of the principles and guidelines contained in Attachment 1 to PC-XVI/HC/3.
- 7.4 The Commission **noted** the decisions of the Committee on Relations with the Host Country to accept the undertakings by the Host Country pertaining to the First Session of the Conference of the States Parties as contained in its letter dated 14 March 1997, and to accept the Staten Hall option without prejudice to the decisions on the modalities of the Conference (PC-XVI/HC/1). The Commission **further noted** that, in taking the above decisions, the Committee had recognised that the Host Country would bear all costs specified in paragraph 2 of PC-XVI/HC/1, and that these undertakings would apply to both options specified in paragraph 3 of the same document.
8. **AGENDA ITEM SEVEN - Report of the Committee on Preparations for the First Session of the Conference of the States Parties**
- 8.1 The Commission **noted** the Report of the Committee on Preparations for the First Session of the Conference of the States Parties (PC-XVI/FS/3), which was presented by the Chairman of the Committee, Ambassador Gustavo Eduardo Figueroa of Argentina.
- 8.2 The Commission **noted** the decisions of the Committee on Preparations for the First Session of the Conference of the States Parties in relation to non-governmental organisations and international organisations (PC-XVI/FS/1/Rev.1 and PC-XVI/FS/2 respectively).
- 8.3 The Commission **decided** that non-governmental organisations which have formally applied to participate in the First Session of the Conference of the States Parties may be invited to attend.
- 8.4 The Commission **considered and approved** the provisional agenda for the FSCSP as amended, as well as the provisional agenda for the first meeting of the Executive Council (PC-XVI/34 and PC-XVI/35 respectively).

9. AGENDA ITEM EIGHT - Report of Working Group A

- 9.1 On 15 April 1997 the Chairman of Working Group A, Ambassador Carlos Enrique Nones of Venezuela, introduced the Reports of Working Group A (PC-XVI/A/1, PC-XVI/A/4, and PC-XVI/A/7). The Commission **took the following action** in relation to matters arising out of the Reports of Working Group A:

Draft Protocol Regarding the Transfer of Assets, Liabilities, Records and Functions

- 9.2 The Commission **noted** that Working Group A, in accordance with the authority delegated to it by the Commission at its Fifteenth Session (subparagraph 7.2 of PC-XV/25), had finally approved (subparagraph 3.1 of PC-XVI/A/4) the Draft Protocol Regarding the Transfer of Assets, Liabilities, Records and Functions from the Preparatory Commission for the Organisation for the Prohibition of Chemical Weapons to the Organisation for the Prohibition of Chemical Weapons (Annex to PC-XV/A/WP.11). The Commission **noted** that Working Group A had approved the changes recorded in subparagraph 3.1 of PC-XVI/A/4, and that the Secretariat had subsequently, in accordance with the request of Working Group A, duly circulated all letters referred to in Annexes 2 and 4 of the Draft Protocol to all Member States (PC-XVI/8), and that no objections had been received by the Secretariat by 26 March 1997 in The Hague.

Draft OPCW Headquarters Agreement

- 9.3 In the light of subparagraphs 3.2 and 3.3 of PC-XVI/A/4, the Commission **noted** that its provisional approval (subparagraph 7.9 of PC-XV/25) of the Draft Agreement between the Organisation for the Prohibition of Chemical Weapons (OPCW) and the Kingdom of the Netherlands Concerning the Headquarters of the OPCW including the Separate Arrangement with respect to the Agreement between the Organisation for the Prohibition of Chemical Weapons and the Kingdom of the Netherlands Concerning the Headquarters of the OPCW (Annex to PC-XV/A/WP.10/Rev.1) had become final.
- 9.4 The Commission **also noted** that Working Group A, in the light of the finalisation of the approval of the Draft OPCW Headquarters Agreement and the Separate Arrangement, had reiterated the Commission's request to the Host Country to implement this Agreement and the Separate Arrangement on a provisional basis after the Convention enters into force on 29 April 1997, pending the approval by the Conference of the States Parties of the text of the Headquarters Agreement including the Separate Arrangement and the entry into force of the Agreement.

Visa Matters

- 9.5 The Commission **welcomed** the initiative of the Host Government to include for consideration by the United Nations General Assembly, at its current resumed session, a new agenda item on the relationship between the United Nations and the OPCW, and to submit a draft resolution authorising the Secretary-General of the United

Nations, upon request of the OPCW, to negotiate a relationship agreement with the OPCW and to present the negotiated draft relationship agreement for approval; such a resolution would also authorise the Secretary-General, as a matter of urgency, to enter into an interim arrangement, pending the conclusion of the relationship agreement, providing for the use of the United Nations laissez-passer by members of OPCW inspection teams and in any other circumstances as determined by the Conference of the States Parties and agreed upon with the United Nations.

- .6 The Commission **invited** all Member States to co-sponsor or support the draft United Nations resolution described in subparagraph 9.5 above.

10. AGENDA ITEM NINE - Report of Working Group B

- 10.1 On 14 April 1997 Ambassador K. Velichkov of Bulgaria, on behalf of the Chairman of the Commission, introduced the Report of Working Group B (PC-XVI/B/6). The Commission **took the following action** in relation to matters arising out of the Report of Working Group B:

Chemical Weapons Issues 1

- 10.2 The Commission **considered and adopted** the following:

- (a) with respect to the terms "buried by a State Party on its territory" and "dumped at sea", the understanding contained in Annex 1 to PC-XVI/B/WP.4; and
- (b) with respect to the declaration requirements for chemical weapons buried by a State Party on its territory after 1976 or dumped at sea after 1984, the understanding contained in Annex 2 to PC-XVI/B/WP.4.

Inspection Procedures

- 10.3 The Commission:

- (a) **considered and adopted** the "Scope of Activities of Designated Laboratories and the Role and Status of Other Laboratories" as contained in Annex 1 to PC-XVI/B/WP.6;
- (b) **approved** the procedure for the re-submission of electronic spectral data as contained in Annex 2 to PC-XVI/B/WP.6, for future use after EIF;
- (c) **approved** the inclusion of analytical derivatives of scheduled chemicals using the reagents N,O-bis(trimethylsilyl)trifluoroacetamide (BSTFA) and 3,4-dimercaptotoluene as contained in Annex 3 to PC-XVI/B/WP.6;
- (d) **approved** the results of the evaluation of the GC data of analytical derivatives of scheduled chemicals as contained in Annex 4 to PC-XVI/B/WP.6; and

- (e) **removed** the GC data of four chemicals as contained in subparagraph 7(a) of the report of the Specialist Task Force on the OPCW Analytical Database dated 24 January 1997 from the results of the evaluation of the GC data as contained in Annex 1 to PC-XV/B/WP.9.

11. AGENDA ITEM TEN - Consideration and adoption of the Final Report and Recommendations of the Commission

The Commission **considered and approved** the Final Report of the Commission (PC-XVI/37).

12. AGENDA ITEM ELEVEN - Any other business

Resignation of Legal Adviser

- 12.1 The Commission **noted** the resignation of the Legal Adviser (PC-XVI/4).

Transfers of funds

- 12.2 The Commission **noted** the intra-programme transfers reported in paragraph 1 of PC-XVI/9 and Corr.1, and **approved** the inter-programme transfers reported in paragraph 2 of the same Note by the Executive Secretary.

Assessment of new Member State

- 12.3 In the light of the advent of two new Member States since the scales of assessment for Part II of the 1996 Budget of the Commission and for the Prorated 1997 Part I Budget of the Commission were adopted at the Eleventh and Fifteenth Sessions of the Commission respectively, the Commission **approved** the 1996 Part II assessment and the 1997 prorated Part I assessment for Bosnia and Herzegovina and the 1997 prorated Part I assessment for Grenada as contained in PC-XVI/5 and PC-XVI/30 respectively.

Trust Fund for Courses for Personnel of National Authorities

- 12.4 The Commission **took cognisance of** the Executive Secretary's Note on the Trust Fund for Courses for Personnel of National Authorities (PC-XVI/11), which records all contributions received for this fund since 4 December 1996.

Nominations for External Auditor of the OPCW

- 12.5 The Commission **took cognisance of** the Note by the Executive Secretary (PC-XVI/2 and Corr.1) inviting signatory States to nominate candidates for the post of External Auditor of the OPCW, and **further noted** that a comparative summary of all nominations received would be submitted to the First Session of the Conference of the States Parties.

Training agreements

- 12.6 In the light of subparagraphs 13.7 - 13.9 of the Report of its Fifteenth Session (PC-XV/25), the Commission **noted** that the Secretariat had already circulated to Member States of the Commission copies of six agreements concluded with Member States for the provision of inspector training, and **further noted** that the Executive Secretary would circulate to Member States of the Commission copies of all agreements subsequently entered into for training facilities, in accordance with the Draft OPCW Confidentiality Policy.

Third Official Proficiency Test

- 12.7 The Commission **welcomed** the offer by the Host Country to carry out the evaluation of the Third Official Proficiency Test at no cost to the Commission or to the Organisation.

13. Adoption of the Report and Closure of the Sixteenth and last Session

The Commission **adopted** its Report, and the Chairman closed the Sixteenth and last Session at 21:05 on 15 April 1997.

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