



Trust and Verify

The Bulletin of the Verification Technology Information Centre

No. 44 January/February 1994

ISSN 0966-9221

In this issue:

- The IAEA/Iraq confidentiality agreement — the IAEA's view
- CTB talks start
- NPT PrepCom II

Test ban talks start

The Conference on Disarmament (CD) started its 1994 proceedings on 25 January. Attention is focused on the *Ad Hoc* Committee on a Nuclear Test Ban which now has a mandate for negotiating a comprehensive test ban (CTB).

As with other *ad hoc* committees, the Chair is rotated between the groups. Under this system, the chair for the first session of the test ban committee has to come from the Group of 21, who nominated Miguel Marin Bosch of Mexico. This nomination was eventually accepted by all CD participants, although the UK took some days before doing so.

The opening statements of the members of the CD were generally supportive of a CTB with many linking the CTB talks with the extension of the NPT in 1995.

On 6 December 1993, the Swedish delegation had presented to the CD a revised version of their draft text for a CTB that was first presented on 3 June. The text of this is contained in document CD/1232.

Details of activities in the test ban committee meetings will appear in future issues of *Trust & Verify*.

NPT PrepCom II

The second session of the Preparatory Committee (PrepCom) for the 1995 NPT Conference took place in New York from 17 to 21 January.

Decisions taken by this session of the PrepCom include:

- Ambassador Jayantha Dhanapala (Sri Lanka) was selected to be President of the 1995 Conference. Ambassador Issac Ayewah (Nigeria) will chair the third session of the PrepCom.
- PrepCom rules of procedure for decision-making.
- Although arrangements for financing the Conference and its PrepComs have yet to be decided, the total budget is now estimated to be \$5.1 million.
- An agreement that NGOs can make presentations to representatives of states attending the next PrepCom session.

The next PrepCom session will take place in Geneva on 12–14 September.

IAEA reports

On 19 January, presentations were made to participants at the NPT PrepCom by the International Atomic Energy Agency (IAEA).

Three papers were presented: 'Safeguards Under the Non-Proliferation Treaty — A technical perspective' by Richard Hooper, Department of Safeguards; 'Safeguards Under the Non-Proliferation Treaty — A policy and Legal perspective' by Mohamed ElBaradei, Assistant Director General External Relations; and 'The IAEA Technical Co-operation Programme — An Overview' by Paulo Barretto, Director, Division of Technical Co-operation Programme.

The first of these outlines the Agency's plans for making the safeguards system more effective, as well as giving a background to safeguards.

In April 1993 the Standing Advisory Group on Safeguards produced a report for the IAEA Director General which was passed on to the Board of Governors in June of that year. The Board initiated a programme, known as 'Programme 93 + 2', to produce proposals for 'a more effective and efficient safeguards system prior to the 1995 NPT Review and Extension Conference'.

The key areas that Programme 93 + 2 is examining are: means for further co-operation with State Systems of Accountancy and Control [of nuclear materials]; changes to declarations by states to encourage greater transparency; further access to undeclared facilities to encourage greater openness; monitoring of the environment for indicators of nuclear activities; making verification less predictable; improving the Agency's analytical capabilities to cope with increased provision of information; and expanding safeguards training.

The second of the papers contains a useful summary of the role of safeguards as a barrier to proliferation:

Firstly, safeguards are but one component of the nuclear non-proliferation regime. Other components include obligations under bilateral and multilateral agreements; other mechanisms to ensure compliance, such as consideration by the Security Council; export controls on nuclear material and equipment; and complementary measures such as steps towards nuclear disarmament and regional accommodations. Safeguards are not the only — or indeed even the primary — barrier to proliferation. The most significant impediment is political: the absence of incentive to acquire nuclear weapons.

Second, verification corresponds to the legal commitment to be verified. No binding verification system can be stronger than the legal commitments on which it is based.

Third, verification is primarily an audit system. As with all modern audit practices, it can provide opinions but cannot 'certify' compliance. The degree of assurance provided through verification depends on the methods used and approaches followed. Access is crucial. The greater the extent

The IAEA/Iraq confidentiality agreement — the IAEA's view

Following the 'Editorial Comment' on the front page of Trust & Verify, No. 42, November 1993, regarding the confidentiality agreement between the International Atomic Energy Agency (IAEA) and Iraq, the editor has received the following communication from Maurizio Zifferero, the IAEA Action Team Leader in Iraq:

It is true that the clandestine Iraqi nuclear programme was assisted by the acquisition of state-of-the-art dual use equipment from around the world, it is also true that most of the states and companies were not aware of the final use of their export.

As a matter of fact, out of the 223 companies so far scrutinized in the IAEA's investigation on procurement issues, it is fair to say that probably less than a dozen were aware of, or suspected the real nature of the end use of their products. Releasing the names of all companies would serve no useful purpose and may actually result in irresponsible damage to their image. With the assistance of the concerned governments and with the cooperation of the companies, the IAEA is using the data it has accumulated on procurement in order to ensure that no dual use equipment, imported by Iraq, remains hidden. The Governments and companies would probably be less forthcoming if the information provided were made public.

At the request of interested Governments the IAEA is also providing evidence obtained in the course of inspections in Iraq, for use in court proceedings involving breaches of national export regulation and control.

On 8 October 1993, the Iraqi authorities finally decided to reveal some important sources of supplies and technical advice which, in the IAEA's judgment, were still missing (or needed confirmation) in order to complete the picture. It is true that the IAEA (and the Special Commission) signed on that occasion a confidentiality agreement [see below—ed.]. In signing this agreement the IAEA (and the Special Commission) made it clear to the Iraqi authorities that they felt free to use the information provided for verification purposes with the assistance of the Governments concerned. It was also specified that this agreement was not construed to prevent any judicial inquiry and/or prosecution that the Governments concerned might undertake as a result of the information given to them.

The editor responds:

One of the lessons from the experience of Iraq is that systems for the control of exports need to be

more transparent in order to allow greater national and international control.

While the principle 'innocent until proven guilty' should apply to the companies involved, the means by which Iraq gained access to relevant technologies must be made public if the intention is to prevent another state from doing the same. Any damage to the image of companies would be minor and would be far outweighed by the benefits of public discussion on the future of technology-control arrangements.

How information may be used under the terms of the agreement may not be as clear as the IAEA is indicating. While it may have been verbally specified to the Iraqi authorities that this agreement 'was not construed to prevent any judicial inquiry and/or prosecution', the text of the letter does not allow for this.

By stating that the Commission and the IAEA will use the information 'solely for the purpose just identified' they have ruled out other uses, which would include 'any judicial inquiry and/or prosecution'. Under many states rules of evidence, a canny defence lawyer could argue that IAEA information should be inadmissible as it is covered by this agreement.

The 8 October agreement was signed the same day as information had been provided by the Iraqi authorities. Some of the ambiguities may be a result of the speed with which it was drawn up.

A partial solution may be to address a letter to the Iraqi authorities stating the intention to use this information in judicial proceedings and to publish this in the next IAEA report to the UN.

The full text of the agreement, which was in the form of a letter from Zifferero and Rolf Ekéus, Executive Chairman of the UN Special Commission, was reproduced in Trust & Verify, No. 43, December 1993. An extract is reproduced here:

... the Commission and IAEA hereby declare that they will use the said information solely in order to identify all the elements of Iraq's previous programmes in the proscribed fields, to clarify related technical and scientific issues for the purposes of resolution 687 (1991), and to assist the Commission and IAEA in the planning and conduct of ongoing monitoring and verification. The information will be treated as confidential and will not be published. The Commission and IAEA will, in conformity with their usual practice, require all those having access to the information to respect this confidentiality and to use it solely for the purpose just identified.

of free and independent access to information and locations, the greater the degree of assurance.

Fourth, the risk that a violation might escape detection through verification is never zero. However, it must be kept in mind that *that* risk is small compared to the risk inherent in activities not subject to verification.

Fifth, verification is a dynamic concept that can be moulded to meet different requirements and circumstances, for example, to accommodate specific national, regional or multinational needs.

Sixth, verification concepts and modalities must respond to scientific developments. Thus, although

the objectives of the nuclear safeguards system are constant and broadly formulated, the means of achieving them must be flexible.

Ukraine

On 3 February, the Ukrainian parliament, the Verkhovna Rada, passed another resolution on the START Treaty. This resolution follows the meeting between President Kravchuk of Ukraine and his US and Russian counterparts.

This new vote by the Rada allows for Ukraine's future accession to the NPT and removes the major reservations of the earlier vote.

NATO Summit

The Declaration of the Heads of State and Government Participating in the Meeting of the North Atlantic Council on 10-11 January including the following paragraph:

We attach crucial importance to the full and timely implementation of existing arms control and disarmament agreements as well as to achieving further progress on key issues of arms control and disarmament, such as:

- the indefinite and unconditional extension of the Treaty on Non-Proliferation of Nuclear Weapons, and work towards an enhanced verification regime;
 - the early entry into force of the Convention on Chemical Weapons and new measures to strengthen the Biological Weapons Convention;
 - the negotiation of a universal and verifiable Comprehensive Test Ban Treaty;
- issues on the agenda of the CSCE Forum for Security Cooperation;
ensuring the integrity of the CFE Treaty and full compliance with its provisions.

Inhumane Weapons Convention

A 1994 review conference of the Inhumane Weapons Convention now seems unlikely. There appears to be a move by some states to delay any conference to 1995.

Reasons stated have included that the participation in a conference would be less than on in 1995 as it would give more time for states to become parties and that the matters that would be dealt with at the conference, such as further protocols on weapon types, are of such complexity that more time would allow a more considered approach to be taken.

Cynics have pointed out that having a conference in 1995 rather than 1994 would allow states, such as the UK and USA, that have signed the Convention to ratify it without appearing to be doing so at the last minute in order to attend the review conference.

CWC signatories

The following states have signed the Chemical Weapons Convention (CWC) in recent months:

Dominica	2 August
St. Vincent and the Grenadines	20 September
Swaziland	23 September
Djibouti	28 September
Maldives*	4 October
Guyana	6 October
Turkmenistan	12 October

(* some sources indicate that the Maldives signed on 1 October)

Biodiversity Convention

The following states have ratified the Biodiversity Convention:

Mauritius	4 September 1992
Seychelles	22 September 1992
Marshall Islands	8 October 1992
Maldives	9 November 1992
Monaco	20 November 1992
Canada	4 December 1992
China	5 January 1993
St Kitts and Nevis	7 January 1993
Ecuador	23 February 1993
Fiji	25 February 1993
Antigua and Barbuda	9 March 1993
Mexico	11 March 1993
Papua New Guinea	16 March 1993
Vanuatu	25 March 1993
Cook Islands	20 April 1993

Guinea	7 May 1993
Armenia	14 May 1993
Japan	28 May 1993
Zambia	28 May 1993
Peru	7 June 1993
Australia	18 June 1993
Norway	9 July 1993
Tunisia	15 July 1993
St Lucia	28 July 1993
Burkina Faso	2 September 1993
Bahamas	2 September 1993
Belarus	8 September 1993
Uganda	8 September 1993
New Zealand	16 September 1993
Mongolia	30 September 1993
Philippines	8 October 1993
Uruguay	5 November 1993
Nauru	11 November 1993
Jordan	12 November 1993
Nepal	23 November 1993
Barbados	10 December 1993
Sweden	16 December 1993
Denmark	21 December 1993
Germany	21 December 1993
Portugal	21 December 1993
Spain	21 December 1993
Belize	30 December 1993
Albania	5 January 1994

In addition, the European Communities ratified the Convention on 21 December 1993 as an international organization.

In the News

UK Rio documents

On 25 January, the United Kingdom Government published four documents outlining its plans following the Rio Summit in June 1992.

The documents — *Climate Change: The UK Programme*; *Biodiversity: The UK Action Plan*; *Sustainable Development: The UK Strategy*; and *Sustainable Forestry: The UK Programme* — total 568 pages with many photographs and figures, but have been criticised for lacking substance.

THORP announcement

On 15 December the Secretary of State for the Environment announced to the British Parliament that authorization had been given to British Nuclear Fuels to start operations at the THORP reprocessing facility at Sellafield.

A period of 28 days was given before the authorizations would take effect. In this period, the environmental organization Greenpeace started legal action for a judicial review of this decision. This legal action is ongoing.

UK export controls

Following reports on UK export controls in earlier editions of *Trust & Verify*, it has been pointed out that in Britain export licences do not cover all exports of military and related equipment.

Government defence exports, such as those to Saudi Arabia under the Al Yamamah arrangement, have Crown status and do not need an export licence, although they are subject to normal defence and foreign policy considerations.

UK tank import

It has been revealed that the tank imported by the UK from the Russian Federation declared in the 1992 UN

Register of Conventional Arms is for 'research and development purposes' and is a modern T-80U type.

Maralinga test site

Following the agreement on 14 July 1993 between the UK and Australia for contributions to the cost of further clean-up of the Maralinga nuclear test site, the two agreed on 10 December that £20 million would be paid over six years, beginning on 1 January 1994.

EC or not EC? — that is the question

Some non-European readers of *Trust & Verify* have queried the use of acronyms such as EC and EU. Confusingly, EC has been used to refer to the European Community, the European Commission or the European Council [of Ministers]. The following explanation may clarify matters slightly.

There are in fact three European Communities, each with the same membership: the European Economic Community (EEC), the European Coal and Steel Community (ECSC) and the European Atomic Energy Community — otherwise known as EURATOM. Together these have become known as the European Community. The European Commission (full title Commission of the European Communities) has similar functions in each Community.

The 1992 Maastricht Treaty, which established the European Union (EU), amends the Treaty of Rome, which established the EEC, with consequential amendments to the other treaties.

The Communities are but one 'pillar' of the EU, the others being the 'common foreign and security policy' pillar and the 'justice and home affairs' pillar.

The European Economic Area (EEA), which entered into force on 1 January 1994, extends the single market provisions of the EEC to five states of the European Free Trade Association — Austria, Finland, Iceland, Norway and Sweden.

The EU should not be confused with the WEU (the Western European Union), a security organisation whose membership currently consists of EU states which are also members of NATO. The Maastricht Treaty provides for co-operation between the EU and the WEU, expressing the hope that in time this will lead to a common defence policy for the EU.

From the past

This is the first in an occasional series of quotes from the past to show how much has changed (or not) over the years.:

Her Majesty's Government consider on their present scientific data that an annual quota of seven on-site inspections would form an acceptable basis for a test ban treaty, if agreement could be reached on other important issues. These include not only the number of automatic [seismic] recording stations but also the rules governing the decision to inspect and the conduct of the inspections. Unfortunately the Soviet Delegation at Geneva is at present refusing to discuss these and other issues. (J. Godber, British Minister of State for Foreign Affairs, 20 March 1960)

VERTIC News

A Farewell to Bogtrotter

Following recent allegations that he had forgotten to put sugar in the editor's coffee, VERTIC Projects Co-ordinator Philip 'Bogtrotter' McNab has decided to follow Asil Nadir's example and do a runner and hide in the provinces in Bradford, West Yorkshire.

He is to take up the post of Assistant Director for Data Retrieval and Analysis at the Farndon House Information Trust, the producers of the recently-launched *Arms Transfers News* and *Military News*.

While Nadir knew that Cyprus was a safe haven from British justice, Philip has perhaps not realised that FHIT has VERTIC director Patricia Lewis on its board.

Watches, inscribed with suitable messages, should be sent to Bradford.

Apologies

The editor apologises for the late arrival of this slightly restyled edition of *Trust & Verify* which is due to the pressure of work in producing the next in VERTIC's series of yearbooks *Verification 1994*. The same brain cells and computer are required for both.

Trust & Verify is edited and produced by Richard Guthrie with additional reporting by VERTIC staff and consultants.

© VERTIC 1994

Trust & Verify

Trust & Verify is produced by VERTIC 10 times a year. Anyone wishing to comment on its contents should contact the VERTIC office.

Unless otherwise stated, views expressed in *Trust & Verify* are the responsibility of the editor and do not necessarily reflect those of VERTIC nor any individual or organization associated with it.

Subscriptions

Subscription rates are £15 (individual) or £25 (organization) per year. Payments may be made by cheque or credit card.

What is VERTIC?

VERTIC is an independent organization aiming to research and provide information on the role of

verification technology and methods in present and future arms control and environmental agreements.

VERTIC co-ordinates six working groups comprising 21 UK consultants and 11 overseas advisors.

VERTIC is the major source of information on verification for scientists, policy makers and the press.

VERTIC is funded primarily by grants from foundations and trusts and its independence is monitored by an Oversight and Advisory Committee.

Other publications

In addition to *Trust & Verify*, VERTIC publishes the *Verification* series of yearbooks, in association with Brassey's, and a variety of research reports each year. Details of VERTIC publications are available on request.

Carrara House
20 Embankment Place
London WC2N 6NN
Telephone 071 925 0867
Facsimile 071 925 0861

VERTIC
Verification Technology Information Centre