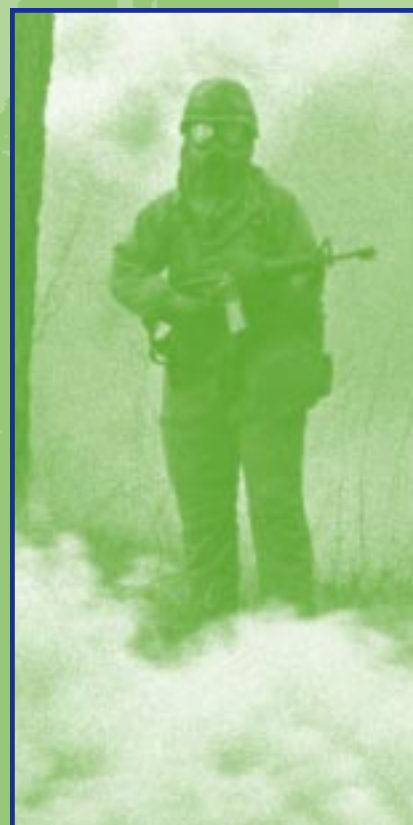


# The Conduct of Challenge Inspections Under the Chemical Weapons Convention

Proceedings of an Expert Workshop  
Held on May 29–31, 2002, in Washington, D.C.

JONATHAN B. TUCKER, EDITOR



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is gratefully acknowledged.*

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handled with cheerful aplomb. The four rapporteurs—Yuliana Ivanova, Cheryl Loeb, and Alexia Treble of the Monterey Institute, and Caitriona McLeish of the University of Sussex—did an outstanding job of taking detailed notes on the wide-ranging discussion. Finally, I would like to thank the Ploughshares Fund of San Francisco for a generous grant that made the workshop and these proceedings possible.

Jonathan B. Tucker  
Center for Nonproliferation Studies  
Monterey Institute of International Studies  
Washington, D.C. Office  
August 2002

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## ABOUT THE CENTER FOR NONPROLIFERATION STUDIES

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# Introduction

A key element of the verification regime for the 1993 Chemical Weapons Convention (CWC) is the right of any member-state to request the Director-General of the Organization for the Prohibition of Chemical Weapons (OPCW) to launch a “challenge” inspection. Such an inspection may be conducted at any facility, declared or undeclared, on the territory of another member state that is suspected of violating the prohibitions of the CWC. The right of a State Party to request a challenge inspection complements the system of routine inspections by OPCW inspection teams of declared, treaty-relevant facilities. In this way, challenge inspections are designed to provide a “safety net” to detect—and thereby deter—the clandestine development, production, or stockpiling of chemical warfare agents and specialized munitions and delivery systems in undeclared facilities, and to ensure that States Parties comply with their declaration obligations. The framers of the CWC anticipated that the routine and challenge inspection mechanisms would interact synergistically, creating a verification system that was stronger than the sum of its parts.

During the more than five years since the entry into force of the CWC on April 29, 1997, however, no member state has requested a challenge inspection, leaving a key component of the treaty’s verification regime unused. At the same time, the United States has repeatedly accused a State Party to the Convention—the Islamic Republic of Iran—with violating its treaty obligations.<sup>1</sup> Iran has denied the U.S. allegation, and Washington has never sought to resolve the issue by requesting a challenge inspection. The Cuban government has also accused the United States of CWC noncompliance at its military base at Guantanamo Bay, Cuba. In view of these unresolved allegations, some government officials and outside analysts have expressed concern

that unless the Convention’s challenge inspection provisions are exercised in the near future, they will lose all political credibility and hence effectiveness in deterring treaty violations.

Article IX of the CWC and Part X of the Verification Annex specify detailed timelines and procedures for the conduct of challenge inspections at suspect facilities. (For relevant excerpts from the treaty text, see Appendix B.) A challenge inspection of a suspect facility may last up to 84 hours of elapsed clock time (not actual on-site inspection time), unless extended by mutual agreement with the inspected State Party, with no limit on the number of inspectors. Whether or not a challenge inspection uncovers clear-cut evidence of a treaty violation will depend on the nature and scale of the prohibited activity, the quality of the intelligence supporting the challenge request, the sophistication of a violator’s efforts to conceal its illicit behavior, and the skill and efficacy of the OPCW inspection team. Although it is unlikely that the inspectors will find a “smoking gun” such as chemical-filled munitions, a challenge inspection may reveal a pattern of anomalies or discrepancies strongly indicative of a treaty violation.

## A New Interest in Challenge Inspections?

Recently, a number of member states have begun to discuss—in general terms—the possibility of requesting a challenge inspection under the CWC. For example, in a speech to the Conference on Disarmament in January 2002, the Honorable John R. Bolton, U.S. Under Secretary of State for Arms Control and International Security, observed:

[T]he United States believes that challenge inspections may in some cases be the most appropriate mechanism for resolving com-

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1 Central Intelligence Agency, “Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 1999,” available on-line at: [http://www.cia.gov/cia/publications.bian/bian\\_aug2000.htm](http://www.cia.gov/cia/publications.bian/bian_aug2000.htm).

pliance concerns. Some States Parties have sought erroneously to characterize the challenge inspection process as tantamount to an abuse of political power. On the contrary, challenge inspections were included as a fundamental component of the CWC verification regime that benefits all States Parties, both as a deterrent to would-be violators and as a fact-finding tool to address compliance concerns. They are a flexible and indispensable tool that, if viewed realistically and used judiciously, can be instrumental in achieving the goals of the Chemical Weapons Convention.<sup>2</sup>

Despite these forward-looking remarks, the timing of a CWC challenge inspection request and the target of the inspection will be influenced by political considerations, the need to protect sensitive intelligence sources and methods, and concerns about the possibility of a retaliatory challenge inspection. The OPCW will also need some time to recover from its recent leadership crisis.<sup>3</sup> Whenever the first CWC challenge inspection occurs, it will set the tone for all future inspections of this type and will have an enduring impact on the effectiveness of the treaty's verification mechanism. In addition, the first CWC challenge inspection will establish an important precedent for other disarmament regimes, including the International Atomic Energy Agency's emerging authority to conduct "special inspections" of suspected nuclear weapons facilities, and a future compliance-monitoring system for the Biological Weapons Convention.

Given the high level of political attention that will inevitably accompany the first CWC challenge inspection, the Technical Secretariat must be prepared to carry it out as effectively as possible. If the inspection is poorly executed and fails to address in a convincing manner the compliance concern that gave rise to the challenge inspection request, it could have the undesired effect of undermining the

credibility and deterrent value of the CWC. In order to ensure the best possible outcome for the first challenge inspection, careful planning and preparation are essential.

To date, a number of countries, including Brazil, India, Pakistan, South Africa, Sweden, Switzerland, the United Kingdom, and the United States, have conducted trial challenge inspections, some with the participation of OPCW representatives. Although these exercises have been constructive, their utility has been limited by the fact that they have all involved small inspection teams of roughly ten people. In the real world, however, a challenge inspection of a major military or chemical industry site could require a much larger team of inspectors, raising organizational and logistical issues that have not been subjected to careful scrutiny.

To examine these issues in greater detail, the *Expert Workshop on the Conduct of Challenge Inspections Under the Chemical Weapons Convention* brought together 28 experts from eight countries (Canada, France, Germany, The Netherlands, South Africa, Switzerland, the United Kingdom, and the United States). The primary aim of the expert workshop was to identify major logistical, communications, and political problems that could arise during a CWC challenge inspection of a large, complex facility, and to explore practical solutions.

As a basis for discussion, the moderators prepared a hypothetical scenario that was divided into several parts. Drawing on this scenario, the workshop participants discussed each stage of the challenge inspection process. At the same time, the conduct of the inspection was examined from several different perspectives, including those of the requesting and inspected States Parties, the inspection team, and the news media. The workshop scenario and a summary of the discussion are contained in these proceedings. Although a list of workshop participants is provided in Appendix A, all discussion during the workshop was on a not-for-attribution basis to promote a free and open exchange of views.

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2 Statement of the Honorable John R. Bolton, Under Secretary of State for Arms Control and International Security, to the Conference on Disarmament, Geneva, Switzerland, January 24, 2002.

3 Judith Miller, "Argentine to Head Group Seeking to Ban Chemical Weapons," *New York Times*, July 26, 2002, p. A4.



# Lessons Learned From UK Trial Challenge Inspections

John R. Walker of the Arms Control and Disarmament Research Unit, Foreign and Commonwealth Office, gave a presentation on lessons learned from trial challenge inspections at British government facilities. A primary focus of these exercises has been to develop approaches for protecting national security and sensitive intelligence information.

## Lessons Learned for the Inspected State Party (ISP)

- No building is so sensitive that some form of access cannot be provided. The access should not be unlimited, however, so careful site preparation is essential.
- If you do not know the correct answer to a question from the inspection team, refrain from giving an incomplete or wrong answer. Instead, try to find the right information and give it to the inspectors.
- When no specific security concerns exist at an inspected facility, be as open as possible and provide all requested information. Such behavior builds credibility with the inspection team.
- Be pragmatic, not doctrinaire, and stay flexible.
- Hold twice-daily meetings with the inspection team to discuss problems.
- Be proactive, but not overly so. In trial inspections, when the host facility appeared too helpful, the inspection team became suspicious and felt it was being led.
- Exploit the existing regulatory framework: paperwork required by domestic laws may provide information that facilitates inspections.
- Ensure the safety of all sites and materials being inspected.
- View the inspection as a cooperative effort. Remember that the inspectors are not representatives of the requesting State Party but rather the OPCW as a whole.

## Lessons Learned for the Inspection Team

- A challenge inspection lasts only 84 hours, measured continuously. Make good use of the time; every second counts.
- Prioritize inspection targets. Only inspect areas of concern and seek evidence to corroborate whatever the ISP says.
- Use audit trails to clarify what is going on at a site.
- Look for anomalies suggestive of noncompliance and seek explanations from the ISP.
- Do not forget the psychological dimension of the inspection. Face-to-face impressions matter. Tension between the ISP and the inspection team will arise if either side is too pushy or defensive.
- Remember the art of negotiation.
- Maintain an even tempo throughout the inspection.
- Always remain alert to possible evasion scenarios. It is easy to miss important clues, so keep your eyes open.
- Make sure that all of the team's expertise is brought to bear.
- Equipment is an adjunct to the inspection. Do not let the equipment take over the mission.



# Fictional Workshop Scenario

In 1990, the popularly elected leader of the Republic of Erehwon was overthrown by a radical student group, which renamed the country the Democratic Independent Republic of Erehwon (D.I.R.E.). Immediately after the revolution, the new regime nationalized all industrial facilities owned by foreign corporations, including U.S. firms. The United States responded by cutting off diplomatic and economic relations with D.I.R.E. In recent months, following the election of new presidents in both countries, the United States and D.I.R.E. have made tentative diplomatic overtures. Despite the warming trend in the relationship, however, D.I.R.E. continues to export small arms and light weapons to radical student groups seeking to topple the governments of neighboring countries, including some U.S. allies.

D.I.R.E. was an original signatory to the Chemical Weapons Convention in 1993 and acceded to the treaty in 1999. In its initial declaration, D.I.R.E. declared nothing under Article IV (chemical weapons stockpiles) or Article V (CW production facilities). It declared no Schedule 1-related facilities, three Schedule 2 producers below the verification threshold, one Schedule 2 consumer below the verification threshold, four Schedule 3 producers below the verification threshold, and two Other Chemical Production Facilities (OCPFs) that each produce more than 200 tons per year of discrete organic chemicals. To date, D.I.R.E. has received only one OCPF inspection by the Technical Secretariat, which took place in late 2001.

D.I.R.E. is up-to-date in its assessed payments to the Organization for the Prohibition of Chemical Weapons (OPCW), and two citizens of D.I.R.E. are employed by the Technical Secretariat. One is an inspector/analytical chemist and maintains his D.I.R.E. citizenship, although he has not visited the country since the 1990 revolution. The second D.I.R.E. national was nominated for employment in 1999, im-

mediately after the country's accession to the CWC, and works in the International Cooperation Branch.

## Part 1. National Decision to Request a Challenge Inspection

Human intelligence, communications intercepts, and overhead infrared imagery suggest that D.I.R.E. is diverting industrial chemicals for the production of chemical warfare agents at a state-owned industrial complex. This complex was originally built by a U.S. corporation and is still known as the Chamberlain Facility. It contains several multi-purpose plant sites that produce agricultural chemicals and light machinery. None of the plants at the Chamberlain Facility have been declared under the CWC.

The human intelligence source is a U.S. pediatrician who until recently worked in D.I.R.E. with a humanitarian organization. She claims to have met a chemical worker from the Chamberlain Facility who told her that a plant there was making "gas warfare agents." Upon her return to the United States, she called the State Department and conveyed the information. Although she provided a detailed physical description of the source, she did not know his name. Other supporting intelligence information includes an intercepted telephone conversation between two Chamberlain plant managers arguing about shortfalls in chemical feedstocks needed to complete an important order for the D.I.R.E. Ministry of Defense. One of these chemicals is an ingredient in the production of nerve agents. Overhead infrared imagery indicates ongoing night-time operations at Chamberlain that are abnormal for the complex. Given current sensitivities about international terrorism, the U.S. government is concerned that a chemical weapons production capability in D.I.R.E. could lead to the proliferation of related technologies to hostile countries that sponsor terrorism.

## Part 2. Technical Secretariat Receipt of Request and Notification of the Executive Council

On the recommendation of the National Security Council, the President of the United States decides to request a challenge inspection in D.I.R.E. A letter containing the request is cabled to the U.S. delegation to the OPCW in The Hague and is hand-delivered to the Director-General of the Technical Secretariat at 7:45 a.m. on Monday, July 1, 2002. The challenge inspection request is also faxed to the Permanent Representatives of all 41 countries serving on the OPCW Executive Council. Consistent with the requirements of the CWC Verification Annex, Part X, paragraph 4, the challenge inspection request contains the following information:

- (a) D.I.R.E. is named as the country to be inspected;
- (b) D.I.R.E.'s sole international airport is designated as the point of entry (POE);
- (c) the area to be inspected is described as a commercial chemical production complex covering approximately 700 acres;
- (d) the allegedly non-compliant activities are the production and storage of chemical weapons in violation of Article III (failure to declare CW development and production), Article IV (illicit CW storage), Article V (illicit CW production), and Article VI (failure to declare production of Schedule 1 chemicals above 100 grams);
- (e) the requesting State Party observer (RSO) is named. Although biographical information is not provided, he is an analytical chemist from the U.S. Department of Defense who has a good understanding of chemical weapons production techniques.

## Part 3. Inspection Team Preparation

*OPCW Funds, Equipment, and People:* The Technical Secretariat estimates that 30 inspectors will be required to conduct the challenge inspection in D.I.R.E. Because of budgetary shortfalls, most of the 200 members of the inspectorate are not currently engaged in routine inspections and hence are available for deployment. Nevertheless, the OPCW has no separate funding source to conduct the challenge

inspections other than the “Special Account 2” designated for sample analysis. As a result, the expenditure of scarce funds to conduct the challenge inspection will deplete the organization’s financial resources, requiring a further cutback in the number of routine inspections of chemical industry sites that the Technical Secretariat plans to conduct this year.

*Transportation Resources:* Two commercial airlines have daily flights from Amsterdam to the point of entry in D.I.R.E., but most of the seats on flights over the coming week have already been sold. Each airline can accommodate only ten passengers per flight over the next five days, and 15 passengers per flight thereafter. No charter, military, or international-organization aircraft are available over the next week.

## Part 4. Special Session of the Executive Council

The current members of the OPCW Executive Council are Algeria, Argentina, Austria, Botswana, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Croatia, Cuba, France, Germany, India, Indonesia, Iran, Italy, Japan, Mexico, Morocco, Namibia, Netherlands, Nigeria, Pakistan, Panama, Peru, Poland, Russia, Saudi Arabia, Slovenia, South Africa, South Korea, Spain, Sri Lanka, Sudan, Sweden, Tunisia, United Kingdom, United States, and Uruguay. In accordance with the CWC, the Executive Council must decide within 12 hours of the initial notification (i.e., by 7:45 p.m. on July 1) if the challenge inspection should be halted. A three-quarters majority vote will be required to stop the inspection.

At 8:30 a.m. on July 1, the Executive Council Chairman announces that the council will convene that afternoon at 1:00 p.m. During the meeting, the OPCW Director-General, the director of the Verification Division, and the inspection team leader brief the Executive Council on the challenge inspection request and the status of the Technical Secretariat’s preparation to conduct the inspection. In accordance with the CWC, neither the United States nor D.I.R.E. are allowed to participate in the Executive Council’s deliberations over whether or not the inspection should proceed. Because the council does not have enough votes to block the inspection, the preparations continue.

## Part 5. Arrival of the Inspection Team at the Point of Entry

As a result of space limitations on available flights from Amsterdam to D.I.R.E., the team is split up and scheduled to arrive at the point of entry (POE) on four different flights. At 4:00 a.m. on Tuesday, July 2, 2002, the Director-General notifies the D.I.R.E. National Authority by fax and telephone that a four-person advance team is scheduled to arrive at the POE on TransGlobal Airlines Flight 11393 at 4:20 p.m. that afternoon. The 26 remaining OPCW inspectors will arrive on three flights the following day, Wednesday, July 3. Ten inspectors will arrive on Icarus Airlines flight 42797 from Paris at 2:35 p.m., six on TransGlobal Airline flight 11393 from Amsterdam at 4:20 p.m., and ten on Icarus Airlines flight 42897 from Frankfurt at 6:47 p.m. All of the team's equipment will arrive on the July 3 TransGlobal flight from Amsterdam.

Based on a communication from the U.S. government (the requesting State Party), the Director-General gives the inspection team the following additional information. The challenged site in D.I.R.E. is called the Chamberlain Facility and was originally built by a U.S. company. It has not been declared by D.I.R.E. as containing treaty-relevant plants. The requested perimeter runs between the railroad line and the facility fence, along the shore of the Whatsituya River, and between a national highway (Highway 1) and the facility fence (see map).

D.I.R.E. acknowledges receipt of the Director-General's fax and telephone message. The advance team, consisting of the inspection team leader and three other inspectors, arrives at the POE forty minutes late, at 5:00 p.m. on July 2. The RSO arrives on the same flight. Two D.I.R.E. government officials greet the arriving advance team and identify themselves as members of the National Authority. After informing the advance team that its time of arrival at the POE is officially 5:00 p.m., these officials escort the team through the airport and onto a waiting 36-passenger bus. The RSO is escorted to a small car parked behind the bus. These two vehicles, led and followed by a military police escort, travel a half-mile to the six-story airport hotel, a state-run facility originally built for the Hilton chain. The advance team is checked into rooms on the third floor, while the observer is put in a room on the fifth floor. The elevator

operator, who wears a D.I.R.E. National Authority badge, does not allow the RSO and the members of the advance team to visit each other's rooms. Military police are stationed on each floor by the elevators and the stairways. As the advance team members check in, they are informed that they will meet with additional representatives of the D.I.R.E. National Authority at 6:00 p.m. in the hotel's first-floor conference facility. At that time, the inspection team leader will hand over the inspection mandate and the requested perimeter.

## Part 6. Perimeter Negotiations, Perimeter Activities, and Pre-Inspection Activities

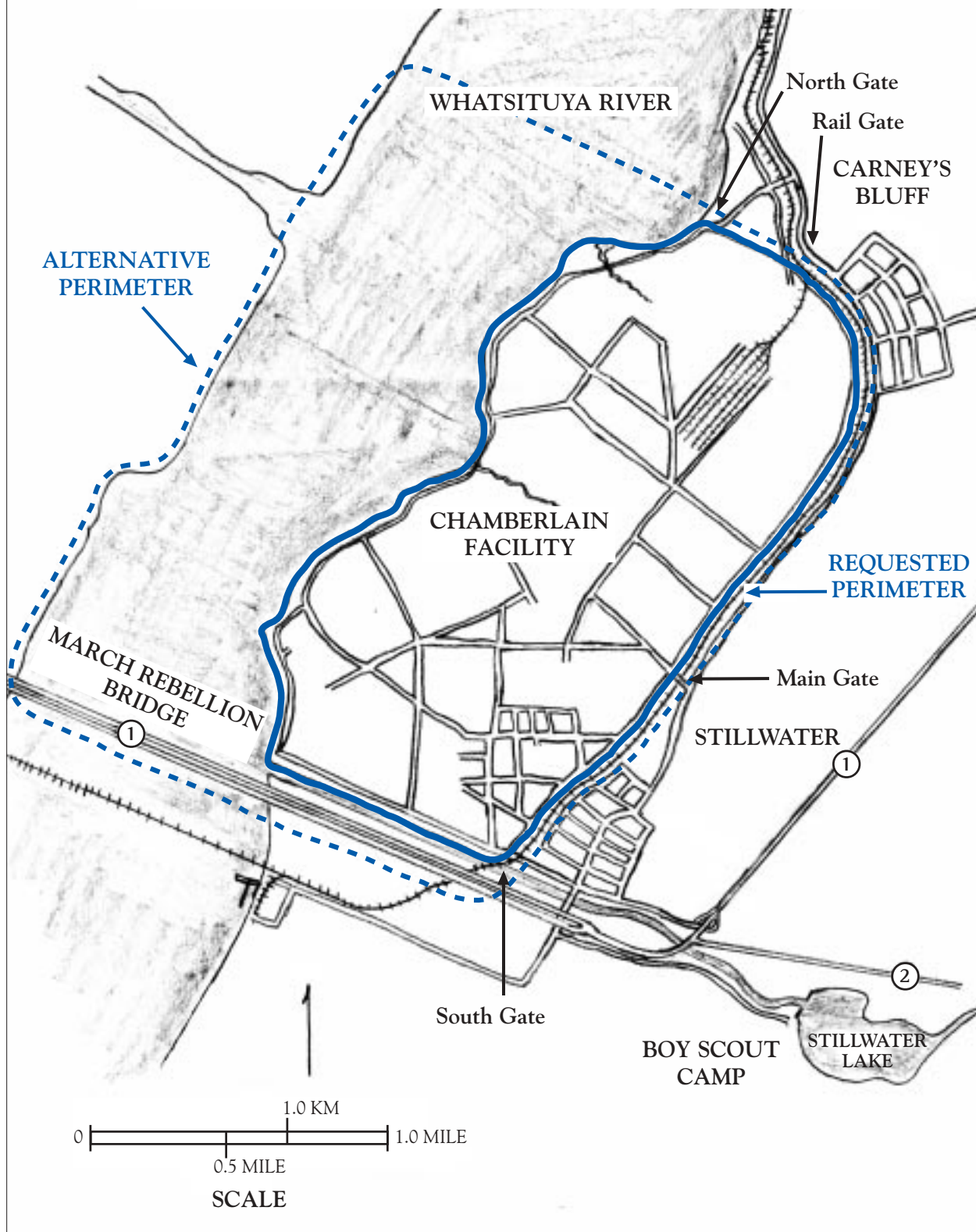
After studying a map with the requested perimeter, the government of D.I.R.E. submits an alternative perimeter to the advance team at 9:00 a.m. on July 3, 2002. The proposed alternative perimeter is larger than the requested perimeter and runs along the outside edge of the railroad track bed, the south side of Highway 1, and the western shore of the Whatsituya River (see map). As a result, the alternative perimeter puts at least a portion of the 50-meter band running along the perimeter in public right-of-way areas such the highway and the railroad track, except for small areas in the towns of Stillwater and Carney's Bluff.

The advance team faxes the alternative perimeter to the OPCW in The Hague for review by Technical Secretariat management. At 10:00 a.m., the Technical Secretariat instructs the advance team to accept the alternative perimeter, with one modification—the line should run along the eastern rather than western shore of the river. The advance team wants to conclude the perimeter negotiations and move to the challenged site as quickly as possible. But D.I.R.E. National Authority representatives insist that the advance team cannot leave the POE until all members of the inspection team have arrived and the inspection equipment has been examined.

The remainder of the team and equipment arrive as scheduled, and the off-loading and examination of equipment are completed by 9:00 p.m. on July 3. At that time, D.I.R.E. agrees to adjust the alternative perimeter to conform with that suggested by the Technical Secretariat. Once the final perimeter has been agreed, the entire inspection team is transported from the POE to the Chamberlain Facility



### CHAMBERLAIN FACILITY MAP



by bus, with the equipment following behind on a truck. The challenged site is approximately 150 miles away, or five hours' drive. The inspection team reaches the vicinity of the agreed perimeter at 2:00 a.m. on July 4, or 33 hours after the advance team's arrival at the POE.

The team is driven to a boy scout camp approximately one mile from the Chamberlain Facility, where sleeping accommodations are provided in a bunkhouse with 25 bunk beds. The building and bedding are clean, but the sleeping arrangements are communal and some bunks have to be shared. There are separate toilet and bathing facilities for men and women. A dining hall is available, and D.I.R.E. officials explain that snacks will be provided around the clock and meals every six hours. A small, securable garage-like building is available for storing equipment, along with a conference facility for administrative use that includes workspace for the inspection team and briefing/meeting rooms.

The D.I.R.E. representatives provide four vehicles with drivers to take inspection team members to the four gates of the facility (three road, one rail). The D.I.R.E. officials request that the inspectors relieve the inspected State Party from its self-monitoring responsibility. They propose that as each perimeter-monitoring sub-team is dropped off at a gate, the logs and videotapes will be collected and delivered to the inspection team leader's administrative area for review. The D.I.R.E. representatives also propose that the pre-inspection briefing (PIB) should begin at 3:00 a.m. on July 4, 2002.

The PIB provides the following general information. In 1954, a U.S. chemical company built the Chamberlain Facility. The plant manufactured fertilizer until 1962, when it also began to produce herbicides to meet demand from domestic agricultural producers. In the late 1980s, the facility became self-sufficient in repairing tanker-trucks and railroad tanker cars to transport its products. In 1986, a waste-treatment facility was built in the northeast corner of the site. This facility treats wastes from Chamberlain and other chemical plants in the area. After the complex was nationalized in 1990, production was scaled back, but it is now returning to earlier levels.

With the exception of the waste-treatment facility, which runs around the clock, the production, maintenance, research, and administrative areas

normally operate from 6:00 a.m. until 7:00 p.m., five days a week. The production areas use two shifts per day and employ some 500 permanent workers and about 100 temporary workers. Overall, the Chamberlain complex has about 50 structures. In addition to chemical production buildings and the waste-treatment facility, the site includes research laboratories, a pilot plant, administration buildings, automotive and locomotive repair shops, a medical clinic, a cafeteria and canteen, and a recreation facility. The PIB concludes with a one-hour safety talk covering the use of hard-hats, safety glasses, steel-toed boots, and emergency escape equipment. The briefing ends at 5:00 a.m. on July 4, 2002.

At the conclusion of the PIB, the D.I.R.E. representative informs the inspection team leader that, in accordance with the CWC, inspection activities inside the perimeter will begin 108 hours after the arrival of the advance team at the POE. Accordingly, the inspection may start anytime after 5:00 a.m. on July 7, 2002. Until that time, the team may conduct perimeter monitoring. The D.I.R.E. representative also requests that the inspection team leader hand over an inspection plan as soon as possible.

The inspection team coordinates two-person monitoring of all active gates to the facility. Only two road gates require round-the-clock monitoring; the others are sealed and opened only as needed. Another monitoring post is set up on the highway bridge, which offers an elevated view of the facility fence running along the river.

## Part 7. Inspection Activities

At 5:00 a.m. on Sunday, July 7, 2002, the inspection team is given access inside the perimeter. The inspection will last for 84 continuous hours. On Monday morning, July 8, the team discovers that all facility workers have been instructed to remain home throughout the inspection period. The only person left on-site is the manager of the complex. D.I.R.E. National Authority representatives explain that this arrangement is intended to give the inspection team greater access to the facility and make it possible to seal all of the gates but one, allowing the team to devote more resources to the inspection. Although the absence of staff facilitates the movement of the inspectors through the facility, entry to several buildings is delayed when keys prove difficult to find.

The OPCW Public Affairs Office has issued a brief press release stating simply that a challenge inspection is under way in an unnamed State Party in accordance with the provisions of the CWC. The identity of the challenged state is leaked, however, and several international news organizations arrive on the scene. They post TV crews at the main gate of the facility and hire boats to cruise the Whatsituya River. The D.I.R.E. National Authority begins providing daily press briefings in which it insists that D.I.R.E. is in full compliance with the CWC and that the challenge inspection is frivolous, abusive, and harmful to its economic development. Meanwhile, a State Department spokesman briefs the international press in Washington and states that the United States is exercising its rights under the CWC to investigate a suspected case of non-compliance.

On Tuesday, July 9, D.I.R.E. National Authority escorts deny the inspectors immediate access to the research laboratory building. The D.I.R.E. officials explain that because of ongoing confidential work for governmental agencies, unfettered access cannot be provided. The inspectors are told that of the 15 rooms in the three-story building, they may enter only five, to be chosen at random by room number. After touring the five chosen rooms, which are empty, dimly lit, and equipped with fumehoods, the inspectors are escorted out of the building. On the way out, the inspection team leader notices what appears to be a high-security area down a central hallway and requests further access, but the D.I.R.E. representatives deny the request. They explain that under the rules of random selected access (RANSAC), the inspectors can visit only those rooms that were selected randomly.

On Wednesday, July 10, D.I.R.E. denies an inspection team request to take samples from what appear to be drums of chemical waste. As an alternative, the inspectors are allowed to take samples from the effluent of the waste-treatment facility, with the demand that “blinding” software be used during the analysis to protect proprietary information. No Schedule 1 chemicals or degradation products are detected in the effluent samples.

## Part 8. Inspection Team Report

After 84 continuous hours, the inspection comes to an end. The inspection team begins to prepare its report. Although the inspectors have been granted some degree of access to every structure in the complex, they have found some unresolved ambiguities. A few samples have been taken and analyzed, but no Schedule 1 or 2 chemicals have been detected.

## Part 9. Executive Council Review

The OPCW Director-General, the Director of Verification, and the inspection team leader present the final report on the challenge inspection in D.I.R.E. to a special session of the Executive Council. During the meeting, the deputy foreign minister of D.I.R.E. argues that the inspection turned up no credible evidence of noncompliance and was therefore frivolous and abusive. He demands that the requesting State Party (the United States) reimburse his government for all expenses and lost profits, together with punitive damages to compensate for the adverse publicity.



## FORM 14 – NOTIFICATION OF LOCATION OF INSPECTION SITE

FORM NUMBER: F014  
FROM: NATIONAL AUTHORITY OF THE UNITED STATES OF AMERICA  
TO: ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS  
PRECEDENCE: IMMEDIATE  
SUBJECT: NOTIFICATION BY REQUESTING STATE PARTY OF LOCATION OF  
INSPECTION SITE FOR CHALLENGE INSPECTION

1. CWC/USA/0345/0702/2002/XXX/F014

2. REFERENCE: CWC/USA/0645/0701/2002/XXX/F012

3. CONTENT:

- A. STATE PARTY TO BE INSPECTED: DEMOCRATIC INDEPENDENT  
REPUBLIC OF EREHWON (D.I.R.E.)
- B. HOST STATE: N/A
- C. NAME AND ADDRESS OF INSPECTION SITE: CHAMBERLAIN CHEMICAL  
COMPLEX, STILLWATER TOWNSHIP, MARIA PROVINCE, D.I.R.E.
- D. LOCATION OF INSPECTION SITE: VICINITY OF STILLWATER  
TOWNSHIP, MARIA PROVINCE, D.I.R.E.
- E. GEOGRAPHIC COORDINATES OF REFERENCE POINT: XX-YY-ZZ  
NORTH BY XX-YY-ZZ EAST
- F. SITE DIAGRAM PROVIDED WITH THIS NOTIFICATION: NO
- G. MAP PROVIDED WITH THIS NOTIFICATION: NO
- H. DIAGRAM WITH REQUESTED PERIMETER PROVIDED WITH THIS  
NOTIFICATION: NO

4. REMARKS: NONE

5. END OF CWC/USA/0345/0702/2002/XXX/F014

## FORM 15 – NOTIFICATION OF ARRIVAL

FORM NUMBER: F015

FROM: ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

TO: NATIONAL AUTHORITY OF THE DEMOCRATIC INDEPENDENT  
REPUBLIC OF EREHWON (D.I.R.E.), OPCW EXECUTIVE  
COUNCIL

PRECEDENCE: IMMEDIATE

SUBJECT: NOTIFICATION OF INTENT TO CONDUCT A CHALLENGE  
INSPECTION PURSUANT TO ARTICLE IX

1. CWC/OTS/0400/0702/2002/XXX/F015

2. REFERENCES: A. CWC/USA/0645/0701/2002/XXX/F012  
B. CWC/USA/0345/0702/2002/XXX/F014

3. CONTENT:

A. INSPECTED STATE PARTY: D.I.R.E.

B. HOST STATE: N/A

C. REQUESTING STATE: UNITED STATES OF AMERICA

D. NAME AND ADDRESS OF INSPECTION SITE: CHAMBERLAIN CHEMICAL  
COMPLEX, STILLWATER TOWNSHIP, MARIA PROVINCE, D.I.R.E.

E. LOCATION OF INSPECTION SITE: VICINITY OF STILLWATER  
TOWNSHIP, MARIA PROVINCE, D.I.R.E.

F. GEOGRAPHIC COORDINATES OF REFERENCE POINT: XX-YY-ZZ NORTH BY  
XX-YY-ZZ EAST

G. SITE DIAGRAM PROVIDED WITH THIS NOTIFICATION: NO

H. MAP PROVIDED WITH THIS NOTIFICATION: NO

I. DIAGRAM WITH REQUESTED PERIMETER PROVIDED WITH THIS NOTIFICA-  
TION: NO

J. ENCLOSURE 1 IS THE REQUEST FOR A CHALLENGE INSPECTION (F012)  
RECEIVED FROM THE REQUESTING STATE PARTY.

K. ENCLOSURE 2 IS THE NOTIFICATION OF THE LOCATION OF THE INSPEC-  
TION SITE (F014) PROVIDED BY THE REQUESTING STATE PARTY.

L. POINT OF ENTRY: CAPITAL CITY, D.I.R.E.

*continue on page 13*

M. DATE AND ESTIMATED TIME OF ARRIVAL (GMT) AT POE: 1720  
(1620 LOCAL), ON JULY 2, 2002.

N. MEANS OF ARRIVAL AT POE: ADVANCE TEAM WILL  
ARRIVE ON TRANSGLOBAL AIRLINES (TGA) FLIGHT 11393;  
REMAINDER OF TEAM TO FOLLOW (SEE 4(A) BELOW).

O. NAMES OF INSPECTORS/INSPECTION ASSISTANTS:

	NAME	PASSPORT #	BADGE #	NATIONALITY	GENDER
1.	_____				
2.	_____				
3.	_____				
4.	_____				
5.	_____				
6.	_____				
7.	_____				
8.	_____				
9.	_____				
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11.	_____				
12.	_____				
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14.	_____				
15.	_____				
16.	_____				
17.	_____				
18.	_____				
19.	_____				
20.	_____				
21.	_____				
22.	_____				
23.	_____				
24.	_____				
25.	_____				
26.	_____				
27.	_____				
28.	_____				
29.	_____				
30.	_____				

*continue on page 14*

- P. AIRCRAFT CLEARANCE INFORMATION FOR SPECIAL FLIGHTS: N/A
- Q. NAME AND NATIONALITY OF REQUESTING STATE PARTY OBSERVER: (LAST NAME, FIRST NAME, MIDDLE INITIAL; PASSPORT NUMBER; NATIONALITY; SEX) HELM, MATTHEW, R.; P07231957; UNITED STATES OF AMERICA; MALE
- R. COORDINATION INFORMATION ABOUT OBSERVER'S ARRIVAL AT THE DESIGNATED POE: OBSERVER WILL ARRIVE WITH THE INSPECTION TEAM.

4. REMARKS:

- A. DUE TO TRANSPORTATION RESTRICTIONS, THE INSPECTION TEAM WILL ARRIVE ON FOUR SEPARATE FLIGHTS. THE INSPECTION TEAM LEADER, THE REQUESTING STATE PARTY OBSERVER, AND INSPECTORS LISTED AS 2-4 ABOVE WILL ARRIVE ON TGA FLIGHT 11393 ON JULY 2, 2002. INSPECTORS LISTED AS NUMBERS 5-14 WILL ARRIVE ON ICARUS AIRLINES FLIGHT 42797 AT 1435 (LOCAL) ON JULY 3, 2002. INSPECTORS LISTED AS NUMBERS 15-20 WILL ARRIVE ON TGA FLIGHT 11393 AT 1620 (LOCAL) ON JULY 3, 2002 WITH ALL TEAM EQUIPMENT. INSPECTORS LISTED AS NUMBERS 21-30 WILL ARRIVE ON ICARUS AIRLINES FLIGHT 42897 AT 1847 (LOCAL) ON JULY 3, 2002.
- B. THE TEAM WILL ARRIVE WITH CHEMICAL COMPONENTS OF THE APPROVED SAMPLE PREPARATION KIT THAT ARE CLASSIFIED AS DANGEROUS GOODS FOR INTERNATIONAL TRANSPORTATION.
- C. THE TEAM WILL ARRIVE WITH COMPONENTS OF APPROVED NON-DESTRUCTIVE EVALUATION EQUIPMENT THAT CONTAIN RADIOACTIVE ISOTOPES.
- D. THE TEAM WILL ARRIVE WITH APPROVED LITHIUM BATTERIES FOR SEVERAL ITEMS OF EQUIPMENT.
- E. HE TEAM WILL ARRIVE WITH APPROVED MEDICAL KITS THAT CONTAIN CONTROLLED DRUGS.

5. END OF CWC/OTS/0400/0702/2002/XXX/F015

## CHALLENGE INSPECTION MANDATE

### ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

#### CHALLENGE INSPECTION MANDATE

To: Inspection Team Leader

From: Director-General of the Technical Secretariat of the  
Organisation for the Prohibition of Chemical Weapons

Subject: Mandate for Challenge Inspection CI001-2002

In accordance with the relevant provisions of the Chemical Weapons Convention, I hereby mandate and instruct an inspection team under your leadership to collect and document such facts that are relevant to the concerns raised by the requesting State Party in its request for inspection (Attachment 1) for the sole purpose of clarifying questions concerning possible non-compliance with the Convention.

1. State Party to be inspected: Democratic Independent Republic of Erehwon (D.I.R.E.)
2. Requesting State Party: United States of America
3. Host State Party: N/A
4. Point of Entry (POE) to be used: Capital City, D.I.R.E.
5. Name and Nationality of Observer: Matthew R. Helm, United States of America
6. Identification of inspection site and specification of the requested perimeter:
  - a. Type and configuration: An active chemical and light industry complex, known as the Chamberlain Facility, and adjacent nearby areas which may or may not include privately owned structures.
  - b. Location: As specified in Attachment 2, in the vicinity of Stillwater Township, Maria Province, D.I.R.E., XX-YY-ZZ North Latitude by XX-YY-ZZ East Longitude.
7. Based on the requesting State Party's request for inspection (attachment 1), provisions of the Convention about which concerns have arisen:
  - a. Article I, Paragraph 1(a);
  - b. Article III, Paragraphs 1(a)(i) and 1(a)(ii);
  - c. Article III, Paragraph 1(c)(i); and
  - d. Article III, Paragraph 1(d).

*continue on page 16*

8. Nature and circumstances of possible non-compliance: According to the requesting State Party, evidence may indicate that D.I.R.E. is engaged in the development, production, and stockpiling of chemical weapons. According to the requesting State Party, D.I.R.E. may be diverting industrial chemicals from permitted purposes to acquiring and maintaining a chemical weapons capability.
9. Appropriate information on the basis of which the concern has arisen includes a report by a U.S. citizen and photographs.
10. Names of inspectors assigned to your inspection team:
  1. Team Leader
  2. Deputy Team leader
  3. Logistics Officer
  - ...
  - ...
  - ...
  30. Paramedic
11. The inspection equipment from the list of approved equipment which the inspection team has been authorized to carry is attached.
12. The inspected State Party has been notified in accordance with paragraph 32 of Part II of the Verification Annex.
13. The purpose of the inspection shall be to gather information regarding the concerns expressed by the requesting State Party, as contained in the attached request for inspection. In order to conduct this inspection, you are authorized to:
  - a. Use the requested perimeter provided by the requesting State Party as the basis for agreement on the final perimeter. You are authorized to accept the alternative perimeter, or negotiate a compromise perimeter under the following conditions:
    - 1) it can be demonstrated that the requested perimeter is not in compliance with the requirements of paragraph 8 of Part X of the Verification Annex;
    - 2) the alternative perimeter conforms to the requirements of paragraph 17 of Part X of the Verification Annex and does not hinder the ability of the team to conduct an inspection;

*continue on page 17*

- 3) changes to the perimeter substantially enhance your ability to conduct exit monitoring; and
- 4) changes to the perimeter will not materially reduce your ability to conduct an effective inspection with available resources.

If the inspected State Party offers an alternative perimeter, you are authorized to conduct all inspection activities anywhere within the final perimeter, regardless of whether that location is within the requested perimeter.

- b. You are instructed to negotiate for the dispatch of members of your team to the requested perimeter as soon as possible after arrival at the Point of Entry in order to assist with exit monitoring and to provide information to assist you in reaching agreement on a final perimeter. You are to request cargo manifests for all departing military and commercial vehicles and all departing aircraft or water vessels, and to negotiate for the inspection of the cargo bays of all departing vehicles, vessels, and aircraft to ensure they do not contain chemical weapons.
- c. According to information provided by the requesting State Party, chemical weapons are alleged to be produced and stored within the perimeter. You are to request access to any and all buildings, bunkers, structures, or facilities which may be related to the development, production, or storage of chemicals. You are instructed to document and photograph any production equipment, munitions, devices, or storage containers which appear capable of containing chemical weapons.
- d. You are to request samples from production equipment, munitions, devices, or storage containers which appear capable of containing chemical weapons or precursors and analyze them on-site to determine the presence or absence of scheduled chemicals. If samples are not provided by the inspected State Party, you are to use non-destructive evaluation equipment (NDE) as necessary to indicate or negate the presence of scheduled chemicals.
- e. You are authorized to request environmental samples be taken in areas where contamination is likely to determine the presence of scheduled chemicals.
- f. In accordance with standard inspection and confidentiality procedures, you are to maintain custody of all photographs, analysis results, and NDE results immediately upon development. Attach all photographs, analytical results, and NDE results to the inspection report. Retain duplicate copies of samples containing the above chemicals or that yielded ambiguous results and bring them back to Headquarters for confirmatory analysis. If inspected State Party equipment is used to conduct analysis, retain duplicate copies of all such samples and bring them back to Headquarters for confirmatory analysis.
- g. You are to request access to all on-site records that could be relevant to the development, production, storage, consumption, and transfer of chemicals.
- h. You are to interview personnel at your discretion concerning their knowledge of the development, production, storage, consumption, and transfer of chemicals within the site. In accordance with standard procedures, you will record such interviews.

*continue on page 18*

- i. You are expected to consult with the requesting State Party observer as the two of you deem necessary during the inspection. You will inform the observer of your progress, and provide information needed for the observer to assess the effectiveness of the inspection and the extent of access and information obtained. You are to request that the observer be allowed to observe the discussions between the inspection team and representatives of the inspected State Party as well as inspection activities.
- j. You may request an extension of the inspection if additional time will assist in clearing up ambiguities and resolving any pending issues.
- k. You will prepare, at a minimum, daily situation reports and transmit these to headquarters. These reports will summarize the previous day's activities as well as logistical support provided by the inspected State Party.

(Signed)

Director-General of the Technical Secretariat

Attachments:

1. Copy of Request for Challenge Inspection (Form 012)
2. Copy of Notification of Location of Inspection Site (Form 014)
3. Copy of Notification of Arrival (Form 015)
4. Inspection Equipment List
5. Site Diagram with Requested Perimeter



## INSPECTION EQUIPMENT LIST

Item	Make and Model	TS Certification Number
Individual protective equipment kits, 5 items	n.a.	./.
Polaroid camera, 2 items		
35mm camera, 2 items		
Hand held detector (CAM), 2 items		
Seal kit (fiber-optical)		
Sample collection kit		
Sample transport kit		
GC-MS spectrometer		
GPS (ruggedised)		
X-Ray equipment		
NIPPS		
Weigh scales		
Compass, 5 items		
Tape measures		
Binoculars, 5 items		
Calculators, 5 items		
Seal kit, adhesive seals		
Magnifying glass		
Chemical casualty kit		
Laptop computer and printer, 2 sets		
SCBA, 2 sets		
Hand-held radios, 3 items		
Total		
Volume: 15 m <sup>3</sup>		
Weight: 6,000 kg		



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# Summary of Workshop Discussion

## Part 1. National Decision To Request a Challenge Inspection

During the negotiation of the Chemical Weapons Convention (CWC), challenge inspections were developed as a kind of “safety net” to deter the use of undeclared facilities, which are not subject to routine inspection, for clandestine chemical weapons development, production, or stockpiling. In the five years since the CWC entered into force, hundreds of routine inspections have been carried out, yet no State Party has yet requested a challenge inspection. As a result, the gap between routine and challenge inspections is much greater now than it was when the CWC entered into force in April 1997. Despite the intent of the treaty negotiators, it is no longer possible to argue that challenge inspections are a “normal” component of the CWC verification regime.

Because no clear evidentiary threshold exists for requesting a challenge inspection, the decision to do so would be made in a political context, taking into account the possible negative ramifications. From the standpoint of the health of the CWC verification regime, workshop participants agreed that it would be desirable to have one or two challenge inspections per year. Yet how can member states establish the precedent that a challenge inspection is not “such a big deal”? Should a State Party request a challenge inspection merely to test out the mechanism and restore its credibility? Some workshop participants favored lowering the political and evidentiary threshold for requesting a challenge inspection, but noted that many CWC member states would oppose the idea. Thus, the decision to request a challenge inspection will most likely be made on a case-by-case basis, depending on the political realities prevailing at the time and the level of concern over possible noncompliance.

Questions were also raised about how frequent challenge inspections would affect the budget of the Organization for the Prohibition of Chemical Weapons (OPCW) in The Hague. Because the organization’s budget has no separate line-item for challenge inspections, conducting them would require diverting scarce resources away from routine inspections. Nevertheless, the organization’s finances should not be a deciding factor in the decision to request a challenge inspection. Because such inspections are mandated by the CWC, member states will simply have to find the funds to carry them out. Another option, of course, would be to establish a contingency fund for challenge inspections in the regular OPCW budget.

### *Contents of the Challenge Inspection Request*

The CWC requires only a “concern” about non-compliance as the condition for requesting a challenge inspection. No specific standard of evidence is given in the treaty. The level of detail contained in the request letter should therefore be sufficient to warrant an investigation but can fall far short of an air-tight case. Moreover, the sources of the evidence need not be revealed.

The requesting State Party should consider what types of intelligence information it is prepared to release to back up the challenge inspection request. It is unlikely that governments would willingly disclose sensitive intelligence from either human or technical sources. Although the Executive Council is supposed to be a secure environment, all information discussed in the council is generally passed to member governments and hence is likely to leak out. For this reason, the availability of supporting open-source information, such as press reports, would facilitate a challenge inspection request. Presumably, the requesting State

Party would wish to use as much open-source material as possible.

At the same time, however, the inspection team will require fairly precise information to carry out an effective inspection. Although the challenge request can be vague, the inspectors will need to obtain more details from the requesting State Party or the RSO in order to focus their efforts and ask probing questions.

Prior to issuing the challenge inspection request, the requesting State Party may wish to consult privately with key allies to obtain their political support in advance. Information supporting the allegation may be communicated in a controlled manner through diplomatic or other channels.

### *The Role of Consultation Procedures Under Article IX*

The fact-finding procedures laid out in paragraphs 1-7 of Article IX of the CWC are intended to be part of the process of clarifying compliance concerns. Unless the evidence of a treaty violation is overwhelming, it might be politically difficult for a State Party to request a challenge inspection without first attempting to resolve the compliance concern in a confidential manner through bilateral consultations. Indeed, many countries would consider a challenge request that has not been preceded by private consultations to be a “slap in the face.” At the same time, requesting a clarification under Article IX would require the concerned State Party to tip its hand and might enable the violator to remove incriminating evidence.

Paragraphs 1 and 2 of Article IX contain some important legal differences. Paragraph 1 states that States Parties “shall consult and cooperate” on any matter relating to the implementation of the CWC; use of the word “shall” means that this provision is legally binding. Paragraph 2, in contrast, says that States Parties “should” make every effort to clarify and resolve compliance concerns before requesting a challenge inspection; the use of the word “should” means that this provision is not legally binding. Paragraph 2 also allows the parties to “arrange by mutual consent for inspections or any other procedures among themselves to clarify and resolve any matter which may cause doubt about compliance.” Article IX makes clear, however, that the consultation process is “without prejudice to the right of any State Party to request a challenge inspection.” *In*

*other words, a State Party is not legally obligated to consult with the accused country before issuing a challenge inspection request.*

In addition to bilateral consultations, paragraphs 3-7 of Article IX give a State Party the right to request the Executive Council to obtain clarification from another member state through the intercession of the Director-General. The Executive Council can convene a group of experts from the Technical Secretariat or elsewhere to examine “all available information and data relevant to the situation causing the concern.” Finally, if the compliance concern remains unresolved, a State Party can request a special session of the Executive Council or the Conference of the States Parties to address it. *In general, the choice of approach for responding to an alleged CWC violation should depend on the seriousness of the suspected infraction.* If the compliance concern is relatively minor, it is better to pursue the bilateral consultation route. But if a State Party has evidence that another member country is engaged in a significant treaty violation, such as the production of chemical weapons or the repeated refusal to declare an activity or facility that is clearly declarable under the CWC, then it is preferable to request a challenge inspection.

## **Part 2. Technical Secretariat Receipt of Request and Notification of the Executive Council**

The requesting State Party must present the challenge inspection request to the members of the Executive Council and at the same time to the Director-General, who will review it to make sure that enough supporting information has been provided to be consistent with the minimal requirements of the CWC. Meanwhile, the Technical Secretariat will begin to organize and plan the inspection.

It may be difficult to keep the challenge inspection request under wraps once it has been sent to the members of the Executive Council. If the challenged country is a member of the council, it will presumably receive a copy of the challenge request document, although neither the challenging nor challenged states are allowed to vote on the matter. Even if the challenged country is not a council member, it is unrealistic to assume that it will not learn of the challenge inspection request from a member of the council or as a result of preparatory activities for the inspection. The

requesting State Party should therefore avoid revealing the name and location of the challenged site prematurely, so as to retain an element of surprise. Of course, if a State Party is violating the CWC at the challenged site, it will know exactly where the violation is occurring and may have time to remove incriminating evidence.

### Part 3. Inspection Team Preparation

The nature and complexity of the challenged facility will largely determine the size and composition of the inspection team. Although the overall makeup of the team will be essentially the same regardless of the type of inspection, a few key members may change if the challenged facility includes a research and development laboratory, a suspected production facility, or a storage bunker. The requesting State Party cannot specify individual OPCW inspectors it would like to see on the team, but it can make recommendations for the types of expertise that will be required.

In assembling the inspection team, the Technical Secretariat must rely exclusively on its own resources and cannot hire outside experts. Leading the inspection team will be a senior OPCW inspector who has accumulated extensive experience in the conduct of routine inspections. The political requirement for geographic diversity will have some effect on the selection of inspectors, as will the fact that the inspected State Party may have excluded inspectors from certain countries in advance. In addition, some OPCW inspectors will not be available because they are already out performing routine inspections.

As soon as a challenge inspection request has been received, the Protocol Division of the Technical Secretariat may have to apply for visas for the inspectors, and the Logistics Operations Team will determine how to move them to the point of entry in the challenged country. Meanwhile, the inspectors will receive preparatory briefings on the political, health, safety, and weather conditions in the challenged country, on administrative matters such as visa requirements, and on the history of CWC verification in the challenged country. If the challenged site has been declared, the inspection team will review that information as well.

The inspection team will be divided into several sub-teams with expertise in administration, communications, health and safety, logistics, analytical chemistry, chemical engineering, and munitions design. Even

with the small amount of information about the challenged site contained in the inspection request (and in the site declaration, if available), the Technical Secretariat can begin preliminary planning, with the expectation that additional details will be forthcoming from the requesting State Party or the RSO. If it turns out that some of the initial assumptions are incorrect, the team must have sufficient flexibility to employ the inspectors in different capacities.

#### *Selection of and Functions of the Requesting State Observer*

The requesting State Party observer (RSO) will probably be selected before the challenge inspection request is launched. Ideally, the chosen individual will have a good technical understanding of chemical weapons production and the provisions of the CWC. He might also be a diplomat accredited to the inspected State Party. Whereas OPCW inspectors enjoy the rights and immunities of international civil servants, the RSO represents only the interests of the state requesting the challenge inspection. Even so, the RSO has specific standing, rights, and obligations under the CWC.

Observation of a challenge inspection by a representative of the requesting State Party is considered important to enhance the credibility of the process. Although the inspected State Party is not obligated to accept the RSO, the inspection report will record if it does not, a fact which may be significant. At the same time, the inspected State Party may have concerns about the confidentiality of information provided to the RSO, who is not under the same obligation as the inspectors to safeguard sensitive data.

The RSO has two important roles during a challenge inspection: (1) to “observe the conduct of the inspection” and confirm that it has been carried out in a fair and professional manner, and (2) to make “recommendations” to the inspection team, although the team is not required to accept them. Under the CWC, the RSO has the right to communicate with the inspection team, but the content of the information transmitted is not precisely defined. The inspection team leader will presumably seek to consult the RSO on a regular basis and to brief him on the conduct of the inspection.

It is possible that the inspected State Party might accept the RSO but restrict his ability to communicate

with the inspection team leader. Nevertheless, heavy-handed efforts to restrict the RSO's activities may backfire politically. During a British mock challenge inspection, a particularly energetic individual playing the RSO was given an intelligence collection mission and a list of things to find out. To curtail this activity, the inspected State Party confined the RSO to a small room throughout the inspection. In response, the RSO called a press conference and declared angrily that the inspected State Party was trying to conceal essential information. *Because negative comments from the RSO could cast a shadow over the credibility of the inspection, the observer should be given sufficient access and information to certify that the inspection team has done a thorough and professional job.* After the inspection is over, the RSO has no powers other than to communicate with his own government, and he may not make a direct input to the OPCW.

#### *Transportation of the Inspection Team and Equipment to the Point of Entry*

The Technical Secretariat does not possess its own fleet of aircraft for the transportation of inspection teams. During the CWC negotiations in Geneva and the ensuing implementation talks conducted by the Preparatory Commission, there was some discussion of purchasing dedicated aircraft for the organization, but the costs were judged excessively high. The Technical Secretariat also explored the possibility of chartering Africa-based aircraft from the UN World Food Program, but found that this option was also too expensive. A further problem with unscheduled charter flights is that it would be necessary to obtain visas for the aircrew and diplomatic clearance from countries along the flight path, both of which would result in additional delays.

In some cases, the requesting State Party or another State Party could provide an aircraft or other means of transportation if there was a consensus that the inspection was a good thing. *In general, however, the Technical Secretariat has determined that commercial flights are the quickest and cheapest way to transport inspection teams and equipment.* To certain destinations, it may be difficult to find a commercial flight on short notice that can accommodate a large inspection team. Because any significant delay in deploying the inspectors will undermine the credibility of the inspection, it would be desirable for the Technical Secretariat to send a small advance team to the point of entry (POE), followed as

soon as possible by the rest of the inspection team and equipment. The advance team would begin perimeter discussions at the POE and could move to the vicinity of the challenged site and begin perimeter monitoring. The advance team should include enough personnel to monitor each entrance to the facility, plus one.

#### **Part 4. Special Session of the Executive Council**

The Executive Council is empowered to decide by a three-quarters majority within 12 hours of a challenge inspection request that the inspection shall not proceed because it is "frivolous, abusive or clearly beyond the scope of this Convention." Halting the inspection would require an affirmative vote by 31 of the 41 countries serving on the Executive Council. (Because the three-quarters majority is of all members of the council, and not just those present, the exclusion of the challenging and/or challenged States Parties would have the effect of treating them as votes in favor of the inspection, or against disapproval.) Thus, a vote to block a challenge inspection is extremely unlikely, albeit not impossible.

Because many of the member-country representatives on the Executive Council are based in Brussels rather than The Hague, the Technical Secretariat may have difficulty assembling them in a timely manner. It is also unclear whether or not the diplomats will be able to obtain instructions fast enough from their respective governments. If the Executive Council fails to meet within 12 hours, or if several representatives do not show up or vote, the challenge inspection will still go forward.

#### **Part 5. Arrival of the Inspection Team at the Point of Entry**

The name and location of the challenged facility must be transmitted to the inspected State Party at least 12 hours before the arrival of the inspection team at the POE. After the team's arrival, the requested perimeter is handed over with the inspection mandate. Even in the case of large sites that consist of several noncontiguous areas, the requested perimeter must be drawn on a map as a single continuous line.

At the POE, the two sides may begin negotiations on the requested perimeter. The inspection



team leader may also make a number of requests, such as an aerial overflight of the site, access to specific records, formal interviews with key facility personnel, and copies of process and flow diagrams.

It is up to the inspected State Party to decide how legalistically it wishes to adhere to the provisions of the CWC. The treaty requires only that the inspection team reach the alternative or final perimeter of the challenged site no later than 36 hours after its arrival at the POE. If the inspected State Party wishes to appear highly cooperative, it will allow some members of the advance team to take up monitoring positions on the requested perimeter right away (to assist the inspected State Party with self-monitoring), before the rest of the inspection team and the equipment arrive at the POE. The inspected State Party is under no legal obligation to do so, however, and can demand instead that the advance team remain at the POE until the rest of the team arrives. Moreover, if the inspected State Party insists on examining every piece of inspection equipment at the POE to confirm the manufacturer, model number, and so forth, that process could take between four and six hours.

## Part 6. Perimeter Negotiations, Perimeter Activities, and Pre-Inspection Activities

During the perimeter negotiations, the inspected State Party may propose an alternative perimeter that must “bear a close relationship to” the requested perimeter. One real-world problem is that the scale of maps that can be transmitted by fax or other means normally provides much less detail than the situation on the ground, so issues may arise about which side of the road the requested perimeter falls on. As a practical matter, the process of “clarifying” the perimeter is distinct from proposing an alternative perimeter.

The inspected State Party may wish to expand the perimeter in order to keep the inspectors away from sensitive buildings during the perimeter monitoring phase. Another motive might be to “dilute” the area subject to inspection, since a larger perimeter provides more areas in which to hide incriminating objects removed from buildings of concern. If the inspectors lack specific intelligence about the buildings of compliance concern and the perimeter is so large that the site is difficult to reconnoiter, the inspectors will face a “needle in the haystack” prob-

lem. In deciding whether or not to accept the alternative perimeter, the inspection team will need to balance these concerns against the delay that would result from additional perimeter negotiations.

Paragraph 39 of Part X of the CWC Verification Annex states that the inspected State Party “shall provide access within the requested perimeter as soon as possible, but in any case not later than 108 hours after the arrival of the inspection team at the point of entry.” This 108-hour period is both a right and a guideline for both sides. (The U.S. Department of Defense considers it an absolute right, although this is a matter of some controversy.) In some cases, it may take the inspected State Party a considerable amount of time to determine who owns the challenged facility, find a suitable map of the site, and secure confidential proprietary or national security information unrelated to CWC compliance.

### *Perimeter Monitoring*

According to the CWC, the inspected State Party must start self-monitoring (“collecting factual information of all vehicular exit activity”) no later than 12 hours after the arrival of the inspection team at the POE, but the OPCW considers this procedure utterly lacking in credibility. Once the members of the inspection team arrive at the perimeter of the challenged facility, they will secure the site and assume the task of perimeter monitoring. The primary aim of such monitoring is to identify and control all exits (perhaps sealing some of them) and to inspect vehicles leaving the site to make sure they do not remove evidence related to the inspection. The inspectors may also conduct sampling within the 50-meter band surrounding the perimeter, which might be significant in some cases.

According to the CWC, “personnel and vehicles entering . . . the site are not subject to inspection.” “Personal passenger vehicles” exiting the site are also beyond the reach of the inspection team. Given these restrictions, it is possible that sensitive items could be moved off-site without being detected. In a trial inspection of a commercial chemical plant site, the inspection took place during a changeover in shifts, when dozens of vehicles left the site. Because it was not possible to inspect all of the vehicles, the inspectors focused their monitoring on large trucks carrying drums, as well as tanker-trucks

containing chemicals. At least in theory, however, nothing would prevent the challenged facility from removing incriminating documents and other evidence in personal cars.

### *Pre-Inspection Briefing*

The inspected State Party's pre-inspection briefing (PIB) for the inspection team generally lasts about three hours and is critical for setting the context for the inspection and providing useful information. The briefing often begins with a virtual tour of the site, followed by a "windshield" (orientation) tour of the plant that typically follows the sequence of the chemical manufacturing process from raw materials to finished products. According to the CWC, the inspection team may request an overflight of the site ("aerial access"), but the inspected State Party is not obligated to fulfill this request.

The PIB is given by representatives of the inspected State Party and provides an opportunity to explain to the inspection team what goes on at the facility and what the inspectors can expect to see, including explanations for apparent anomalies (e.g., ton containers of chlorine gas). The inspected State Party must hand over "a map or sketch to scale showing all structures and significant geographical features of the site." On a voluntary basis, the facility may provide process-flow diagrams, indicate the locations of sampling ports, and conduct a detailed review of basic logistics (food, breaks, base camp, transportation, etc.). A safety briefing is required; although it is not necessarily included in the PIB, in routine inspections it tends to be. The inspected State Party should conclude the PIB by proposing an inspection plan that includes best routes, times, and ways to access buildings so as to minimize the burden on plant operations. The inspection team should not necessarily conclude that it is being led, as the inspected State Party may be making a sincere attempt to be cooperative. In any case, the inspection team is not bound by the proposed inspection plan.

*It is worth the time and effort for the inspected State Party to provide an in-depth PIB so that the inspection goes more smoothly.* A presentation that has been prepared and vetted in advance can convey essential information to the inspection team without revealing too many sensitive details. In practice,

the quality of PIBs during routine CWC inspections and in challenge inspection exercises has varied greatly. Among the best have been briefings given at chemical industry facilities during routine inspections; among the worst have been pre-inspection briefings for challenge inspection exercises at U.S. military sites, where the tendency has been to make the briefing as uninformative as possible.

## **Part 7. Inspection Activities**

After the PIB, the formalities described in Part X of the Verification Annex come to an end. From now on, the inspection team must take the initiative and pursue the compliance concerns laid out in the challenge inspection mandate. In contrast to a routine inspection, which is structured, formal, and predictable, the challenge inspection mandate would probably be written by the OPCW Director-General to allow the inspection team maximum flexibility in investigating activities related to possible non-compliance.

States Parties differ with respect to the legal procedures that must be followed to inspect privately owned facilities. In the United States, if access is not provided voluntarily, the U.S. National Authority must obtain a criminal warrant specifying where and for what purpose the access is sought. If the inspected site has two or three different owners, all of whom deny access, then a separate warrant must be obtained for each owner. Most other countries, however, have implementing legislation that does not require the issuance of a warrant by a magistrate.

The first task of the inspection team is to set up a command center, including a briefing and debriefing area where sub-teams can compare notes and plan the next activity, a handling station for documents, and a communications area with a secure satellite telephone and fax that is manned continually to maintain contact with the Technical Secretariat in The Hague. The analytical laboratory should be set up as soon as possible because it takes about four to six hours to unpack, calibrate, and performance-test the equipment.

To develop a preliminary inspection plan, the inspection team leader will meet with the sub-team leaders to review overall strategy. The inspection will be based on two elements: (1) the compliance concerns laid out in the inspection mandate, and



(2) the additional information provided to the inspection team by the RSO on a confidential basis. There is no requirement for the inspection team to provide a “final” inspection plan for the entire site. Instead, the inspection team should prepare a “hit list” of buildings to inspect that is specific for the first day but more general for subsequent days. Based on the initial findings, the inspectors will revise the inspection plan as they adapt to the situation on the ground. *A key challenge for the team is to maintain the element of surprise, not just before the inspection begins but throughout the entire inspection process.*

Early on, the inspection team should make clear to the inspected State Party the logistical requirements of the inspection, including the number of facility escorts that will be required. Three or four sub-teams (each consisting of two or three inspectors) will monitor the main gate and other important parts of the facility perimeter, as well as key buildings that the inspection team plans to inspect later on. Throughout the inspection period, the team must continue monitoring the gates to the facility on a 24-hour basis to prevent the removal of incriminating materials.

To communicate with the command center, it is likely that the sub-teams will have two-way radios that employ frequencies assigned by the inspected State Party. Unless the radios are encrypted, team members will need to use call signs and pre-agreed code words to protect confidential information. The inspection team will also provide frequent situation reports to the Technical Secretariat in The Hague, where a group of senior OPCW officials (including the Director-General, the Deputy Director-General, and the heads of the verification, public affairs, and legal departments) will monitor the activities of the inspection team on an ongoing basis. The Technical Secretariat will in turn keep the members of the Executive Council informed of the progress of the inspection.

The inspection team will conduct round-the-clock operations throughout the 84-hour inspection period, with team members engaged in eight hours of active inspection, eight hours of reporting and support activities, and eight hours of rest during each 24-hour cycle. Given that the inspection is time-limited, it will be necessary to perform different activities in parallel, such as interviews and sample analyses. The periods when team members are not actively inspect-

ing provide time to write notes, do analysis, and prepare for the next day’s activities.

Detailed reporting is essential throughout a challenge inspection because the inspection team has to create an “evidentiary trail” to validate its findings. *All actions taken during the inspection must be fully documented to demonstrate to the Executive Council and the requesting State Party that the team was thorough and professional in its conduct of the inspection.* Accordingly, “scribes” will accompany the inspection team leader and each of the sub-teams that interact with the inspected State Party. Although photography will have to be negotiated and hence would not be useful for documenting the inspection as a whole, the inspection team may request members of the host facility to take photographs to document “ambiguities.” Two copies would be made of each image, one for the inspection team and one for the inspected State Party, using film cameras capable of instant photography. (Digital cameras have been excluded from the approved equipment list because electronic images are too easily manipulated.)

Two sub-teams will work in parallel to interview facility personnel. At the POE, the inspection team leader may have requested an organizational chart of the facility in order to select key officials to interview, including plant managers, R&D laboratory managers, and operating managers. The Technical Secretariat would prefer that interview questions not be provided in advance. In any event, the inspection team will follow up prepared questions with unscripted ones. Because of the high-stakes nature of a formal interview, however, it is not necessarily the best way to obtain information. Individuals may be more forthcoming in an informal setting.

The inspection team will need to include experts in auditing documents, such as production records, log books, overtime sheets, raw material purchase orders, and invoices. Record audits serve two functions: to determine consistency with the stated purpose of the facility, and to generate new leads for inspection activities. Although computer records are considered a form of documentation, the OPCW does not recruit experts in forensic computing. Members of the inspection team might attempt to examine computer hard disks, but only to the extent that their expertise allows. The inspected State Party may also limit the inspectors’ access to computerized records.

Another serious impediment to the effective conduct of challenge inspections is the fact that the Technical Secretariat employs few skilled interpreters and translators who understand technical vocabulary and concepts. During a mock challenge inspection in Brazil, for example, some of the inspectors spoke Spanish but none spoke Portuguese; as a result, they understood only about 75 percent of what they heard. Linguistic ambiguities—deliberate or inadvertent—may also prevent inspectors from detecting subtle but important anomalies.

Workshop participants agreed that OPCW inspection teams should not rely exclusively on interpreters and translators provided by the inspected State Party. Unfortunately, the CWC precludes the Technical Secretariat from including on inspection teams skilled linguists who are not members of the regular inspectorate staff without first going through the lengthy approval process specified in Parts II and X of the Verification Annex. *In order to meet some of the requirements for interpretation and translation, however, the Technical Secretariat could hire contract employees to translate faxed documents or transmitted audio files for the inspection team.*

### Public Affairs Concerns

A CWC challenge inspection—particularly the first one—will trigger a flood of news media interest. The inspected State Party will largely control press coverage of the inspection. With the approval of the inspected State Party and the OPCW Director-General, the inspection team leader may issue limited statements to the press, but individual inspectors should not communicate with the media. It would also be unwise for senior OPCW officials to make rigid policy pronouncements at a time when a degree of ambiguity and flexibility may be required.

In the workshop scenario, D.I.R.E. tries to manipulate the international media as part of its campaign of innocence. If the inspection team leader declines to comment on the record, he would run the risk that D.I.R.E. officials would bias the press against the inspection process. *To deal with these potential problems, the inspection team should include a senior adviser from the Technical Secretariat's External Relations Division who ensures that a consistent message is communicated at all times.* As with other specialists and personnel from the Technical Secretariat, this indi-

vidual would have to be included on the list of approved inspectors and inspection assistants.

### Sampling and Analysis

Sample analysis is a key element of a challenge inspection, but it requires a great deal of time and effort and hence should not be used casually. The inspection team will be equipped with an analytical laboratory consisting of a gas chromatograph/mass spectrometer (GC/MS), as well as hand-held chemical agent monitors. In general, the inspectors should be extremely selective when collecting samples. A broad-brush approach, involving the collection and analysis of a large number of samples from throughout the challenged site, would detract from the inspection process and overload the analytical chemists. Accordingly, samples should be taken only where they offer the greatest chance of yielding informative results. *The Technical Secretariat estimates that the maximum number of samples that can realistically be collected and analyzed on-site during a challenge inspection are two environmental samples (soil/wipe), two or three liquid samples, and one or two waste water samples.* The origin and chain-of-custody of each sample must be thoroughly documented.

To develop a sampling plan, the inspection team will need to work backwards from the end of the 84-hour inspection period, calculating the analysis times for different media. Chemical derivatives of some compounds must be prepared before they can be detected by GC/MS, requiring even more time. If samples are collected up to 48 hours before the end of the inspection, the analytical results should be available prior to departure. If, however, samples are collected later, it may be necessary to request a time extension or to take the samples to an off-site laboratory to complete the analysis. Employing analytical equipment owned by the inspected facility could save a great deal of time, but unless the inspection team retained full control of the analytical process, it would not have confidence in the results.

The OPCW requires the use of “blinding” software, which cuts out a portion of the analytical results. Although the purpose of this policy is to protect proprietary information, it seriously reduces the utility of sampling and analysis. There are five different levels of blinding that withhold increasing amounts of information. At the highest (fifth) level, the software provides a binary “yes/no” readout as to whether or not a Sched-

ule 1 chemical is present in the sample, but does not reveal the identity of the detected compound. As a result, the analytical chemist has no idea if the spectrum of the detected chemical is an exact or only partial match with the reference spectrum in the software library, or even if the machine is working properly.

The level of blinding must be negotiated with the inspected State Party. Once a certain level of blinding has been chosen, however, the inspection team cannot easily switch to another level on the same GC/MS machine. Instead, the team would have to bring a second GC/MS to do a more detailed analysis. *As an alternative to blinding as a means to protect proprietary or national security information, the inspection team should offer to conduct all analyses in the presence of the inspected State Party.*

Some cheating scenarios involve the production of chemical warfare agents or precursors not listed in the CWC's three Schedules of Chemicals. Because the blinding software for the mobile GC/MS will not report the existence of unscheduled compounds, samples suspected of containing novel agents would have to be sent to an outside reference laboratory for analysis.

### Managed Access

As defined in the CWC, "managed access" involves a negotiation between the inspection team and the inspected State Party over the amount of access to be provided within the perimeter of a challenged facility. This procedure is designed to give the inspected State Party a way to protect information that is confidential for national security or proprietary reasons. Generally, the most sensitive facilities at commercial chemical facilities are research laboratories and pilot plants, which may contain novel processes and production equipment that provide a competitive edge. In such cases, some use of managed access is appropriate. For example, the OPCW inspection team might be asked to stand at the door of a pilot plant while a single team member is allowed to walk through and verify that no prohibited weapons or activities are present.

Nevertheless, managed access is often portrayed incorrectly as a panacea for resolving the conflict between the inspectors' need to obtain sufficient access to address compliance concerns and the host facility's need to protect proprietary and security information unrelated to the CWC. In fact, managed access is requested exclusively by the inspected

State Party and offers few if any benefits to the inspection team. Of course, the inspection team may suggest managed-access strategies as part of a negotiation over contested levels of access, and the inspected State Party can employ a managed-access technique only if the inspection team agrees to it. In general, however, inspectors naturally question and doubt the inspected State Party's use of managed access and become suspicious when the proposed level of managed access appears excessive.

In the workshop scenario, D.I.R.E. requests that the inspection team use a technique called "random selected access" (RANSAC) to inspect a research laboratory that is involved in confidential government work. According to this approach, the inspection team is granted access to five of the building's 15 rooms, with the room numbers chosen at random. The rationale is that granting access to a few of the rooms, selected by chance, is tantamount to demonstrating that no prohibited activities exist anywhere. Some workshop participants noted that although the inspection team agreed to this request, it was probably an inappropriate use of RANSAC.

In principle, *RANSAC is most effective when the buildings or spaces to be inspected appear identical from the outside and have the same basic purpose, such as a series of storage bunkers.* There is also a role for RANSAC in managing access to multiple rooms in a nuclear weapons facility, where comprehensive access would reveal too much sensitive information about the manufacturing process. Several workshop participants argued that the inspection team should have been allowed to make an "informed" selection, in which the team first walked through the entire laboratory building with the doors open, and then selected five rooms for detailed inspection.

## Part 8. Inspection Team Report

After the inspection is over, the raw data collected by the inspection team are sealed and may not be shared with outside parties, although the inspected State Party may request copies of the inspectors' notebooks. Within 72 hours of the end of the inspection, the inspection team must prepare a preliminary report. At this time, the inspected State Party has an opportunity to comment to ensure that the report accurately and objectively reflects what took place during the inspection. Although the inspection team is under no

obligation to agree to any of the changes proposed by the inspected State Party, it might accept small factual corrections or clarifications.

Within 20 days of the inspection, the inspection team must complete its draft final report, which is again reviewed by the inspected State Party. This deadline is timed to allow for the completion of off-site chemical analyses. The final report will probably total a few hundred pages. Although it will be distributed to all States Parties, any confidential information will be placed in a classified annex that is stored in a secure area at OPCW headquarters. The final report must include factual data and commentary on three aspects of the challenge inspection: (1) a detailed chronology and evaluation of the extent of access provided by the inspected State Party; (2) the fulfillment of the inspection mandate; and (3) the involvement of the RSO, including comments and recommendations made to the inspection team. The report should not include sensitive intelligence transmitted by the RSO because doing so would reduce his willingness to provide such information.

## Part 9. Executive Council Review

Whereas the role of the inspection team is to collect factual information and report its experiences during the inspection, the task of the Executive Council is to draw on that information to “address” noncompliance concerns. If the Council concludes that further action is necessary, it can vote to “take appropriate measures to redress the situation.” The Executive Council may also need to consider whether or not the inspection was “frivolous” or “abusive”; a decision to this effect would require a two-thirds majority vote.

The outcome of a challenge inspection will depend to a large extent on the specificity of the inspection mandate. There are two possible “failure modes.” First, if the mandate is too vague, the inspection team may be unable to address and clarify the compliance concerns, regardless of the degree of cooperation provided by the inspected State Party. Thus, doubts will remain that the inspection team may have missed something. A second reason for an inconclusive outcome is if the inspection team and the inspected State Party cannot agree on the appropriate level of access needed to resolve the compliance concerns. For example, the inspected State

Party may accuse the team of requesting an unreasonable amount of access to sensitive areas.

Because a challenge inspection has not taken place in the more than five years since the CWC entered into force, an unrealistic expectation has arisen that if the mechanism is used now, it should be successful in exposing a clear case of noncompliance. Workshop participants agreed that it would be preferable to lower the bar by managing expectations. A CWC violator would almost certainly not let an inspection team into a facility that contains a “smoking gun” (such as filled chemical munitions) because the political consequences of a refusal to cooperate would be less serious than being found in clear violation of the treaty. Given this reality, the requesting State Party should explain from the outset that the purpose of the challenge inspection is to use an internationally agreed procedure to clarify a compliance concern, not to catch a violator red-handed. *The absence of a “smoking gun” does not mean that the inspection was a failure. Realistically, the most that one can expect to discover is a “whiff of cordite.”* At the same time, the requesting State Party should make clear that the inability of a challenge inspection to find definitive proof of noncompliance should not necessarily imply that the country in question is in full compliance.

## Conclusion

Workshop participants agreed that more than five years after the entry into force of the CWC, the first challenge inspection request is long overdue. Conducting a challenge inspection would put other States Parties on notice that CWC noncompliance will not be tolerated, and would reinvigorate the deterrent value of the verification regime. Nevertheless, it will not be easy to find a rationale for requesting a challenge inspection that is both non-trivial and imposes limited political costs on the requesting State Party. If the chief purpose of challenge inspection is to strengthen deterrence of CWC violations, it may not matter if a particular inspection fails to uncover conclusive evidence. At the same time, it would be counterproductive to use a challenge inspection to address a trivial violation. Requesting a challenge inspection without a real foundation could be as damaging to the CWC as no challenge inspections at all.



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# Excerpts from the CWC Relevant to Challenge Inspections

## ARTICLE IX: CONSULTATIONS, COOPERATION AND FACT-FINDING

1. States Parties shall consult and cooperate, directly among themselves, or through the Organization or other appropriate international procedures, including procedures within the framework of the United Nations and in accordance with its Charter, on any matter which may be raised relating to the object and purpose, or the implementation of the provisions, of this Convention.
  2. Without prejudice to the right of any State Party to request a challenge inspection, States Parties should, whenever possible, first make every effort to clarify and resolve, through exchange of information and consultations among themselves, any matter which may cause doubt about compliance with this Convention, or which gives rise to concerns about a related matter which may be considered ambiguous. A State Party which receives a request from another State Party for clarification of any matter which the requesting State Party believes causes such a doubt or concern shall provide the requesting State Party as soon as possible, but in any case not later than 10 days after the request, with information sufficient to answer the doubt or concern raised along with an explanation of how the information provided resolves the matter. Nothing in this Convention shall affect the right of any two or more States Parties to arrange by mutual consent for inspections or any other procedures among themselves to clarify and resolve any matter which may cause doubt about compliance or gives rise to a concern about a related matter which may be considered ambiguous. Such arrangements shall not affect the rights and obligations of any State Party under other provisions of this Convention.
- Procedure for requesting clarification**
3. A State Party shall have the right to request the Executive Council to assist in clarifying any situation which may be considered ambiguous or which gives rise to a concern about the possible non-compliance of another State Party with this Convention. The Executive Council shall provide appropriate information in its possession relevant to such a concern.
  4. A State Party shall have the right to request the Executive Council to obtain clarification from another State Party on any situation which may be considered ambiguous or which gives rise to a concern about its possible non-compliance with this Convention. In such a case, the following shall apply:
    - (a) The Executive Council shall forward the request for clarification to the State Party concerned through the Director-General not later than 24 hours after its receipt;
    - (b) The requested State Party shall provide the clarification to the Executive Council as soon as possible, but in any case not later than 10 days after the receipt of the request;
    - (c) The Executive Council shall take note of the clarification and forward it to the requesting State Party not later than 24 hours after its receipt;
    - (d) If the requesting State Party deems the clarification to be inadequate, it shall have the right to request the Executive Council to obtain from the requested State Party further clarification;
    - (e) For the purpose of obtaining further clarification requested under subparagraph (d), the Executive Council may call on the Director-General to establish a group of experts from the Technical Secretariat, or if appropriate staff are not available in the Technical Secretariat, from elsewhere, to examine all available information and data relevant to the situation causing the concern. The group of experts shall submit a factual report to the Executive Council on its findings;
    - (f) If the requesting State Party considers the clarification obtained under subparagraphs (d) and (e) to be unsatisfactory, it shall have the right to request a special session of the Executive Council in which States Parties involved that are not

members of the Executive Council shall be entitled to take part. In such a special session, the Executive Council shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.

5. A State Party shall also have the right to request the Executive Council to clarify any situation which has been considered ambiguous or has given rise to a concern about its possible non-compliance with this Convention. The Executive Council shall respond by providing such assistance as appropriate.
6. The Executive Council shall inform the States Parties about any request for clarification provided in this Article.
7. If the doubt or concern of a State Party about a possible non-compliance has not been resolved within 60 days after the submission of the request for clarification to the Executive Council, or it believes its doubts warrant urgent consideration, notwithstanding its right to request a challenge inspection, it may request a special session of the Conference in accordance with Article VIII, paragraph 12 (c). At such a special session, the Conference shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.

#### Procedures for challenge inspections

8. Each State Party has the right to request an on-site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of this Convention, and to have this inspection conducted anywhere without delay by an inspection team designated by the Director-General and in accordance with the Verification Annex.
9. Each State Party is under the obligation to keep the inspection request within the scope of this Convention and to provide in the inspection request all appropriate information on the basis of which a concern has arisen regarding possible non-compliance with this Convention as specified in the Verification Annex. Each State Party shall refrain from unfounded inspection requests, care being taken to avoid abuse. The challenge inspection shall be carried out for the sole purpose of determining facts relating to the possible non-compliance.
10. For the purpose of verifying compliance with the provisions of this Convention, each State Party shall

permit the Technical Secretariat to conduct the on-site challenge inspection pursuant to paragraph 8.

11. Pursuant to a request for a challenge inspection of a facility or location, and in accordance with the procedures provided for in the Verification Annex, the inspected State Party shall have:
  - (a) The right and the obligation to make every reasonable effort to demonstrate its compliance with this Convention and, to this end, to enable the inspection team to fulfil its mandate;
  - (b) The obligation to provide access within the requested site for the sole purpose of establishing facts relevant to the concern regarding possible non-compliance; and
  - (c) The right to take measures to protect sensitive installations, and to prevent disclosure of confidential information and data, not related to this Convention.
12. With regard to an observer, the following shall apply:
  - (a) The requesting State Party may, subject to the agreement of the inspected State Party, send a representative who may be a national either of the requesting State Party or of a third State Party, to observe the conduct of the challenge inspection.
  - (b) The inspected State Party shall then grant access to the observer in accordance with the Verification Annex.
  - (c) The inspected State Party shall, as a rule, accept the proposed observer, but if the inspected State Party exercises a refusal, that fact shall be recorded in the final report.
13. The requesting State Party shall present an inspection request for an on-site challenge inspection to the Executive Council and at the same time to the Director-General for immediate processing.
14. The Director-General shall immediately ascertain that the inspection request meets the requirements specified in Part X, paragraph 4, of the Verification Annex, and, if necessary, assist the requesting State Party in filing the inspection request accordingly. When the inspection request fulfils the requirements, preparations for the challenge inspection shall begin.
15. The Director-General shall transmit the inspection request to the inspected State Party not less than 12 hours before the planned arrival of the inspection team at the point of entry.
16. After having received the inspection request, the Executive Council shall take cognizance of the Director-General's actions on the request and shall keep the case under its consideration throughout the



inspection procedure. However, its deliberations shall not delay the inspection process.

17. The Executive Council may, not later than 12 hours after having received the inspection request, decide by a three-quarter majority of all its members against carrying out the challenge inspection, if it considers the inspection request to be frivolous, abusive or clearly beyond the scope of this Convention as described in paragraph 8. Neither the requesting nor the inspected State Party shall participate in such a decision. If the Executive Council decides against the challenge inspection, preparations shall be stopped, no further action on the inspection request shall be taken, and the States Parties concerned shall be informed accordingly.
18. The Director-General shall issue an inspection mandate for the conduct of the challenge inspection. The inspection mandate shall be the inspection request referred to in paragraphs 8 and 9 put into operational terms, and shall conform with the inspection request.
19. The challenge inspection shall be conducted in accordance with Part X or, in the case of alleged use, in accordance with Part XI of the Verification Annex. The inspection team shall be guided by the principle of conducting the challenge inspection in the least intrusive manner possible, consistent with the effective and timely accomplishment of its mission.
20. The inspected State Party shall assist the inspection team throughout the challenge inspection and facilitate its task. If the inspected State Party proposes, pursuant to Part X, Section C, of the Verification Annex, arrangements to demonstrate compliance with this Convention, alternative to full and comprehensive access, it shall make every reasonable effort, through consultations with the inspection team, to reach agreement on the modalities for establishing the facts with the aim of demonstrating its compliance.
21. The final report shall contain the factual findings as well as an assessment by the inspection team of the degree and nature of access and cooperation granted for the satisfactory implementation of the challenge inspection. The Director-General shall promptly transmit the final report of the inspection team to the requesting State Party, to the inspected State Party, to the Executive Council and to all other States Parties. The Director-General shall further transmit promptly to the Executive Council the assessments of the requesting and of the inspected States Parties, as well as the views of other States Parties which may be conveyed to the Director-General for that purpose, and then provide them to all States Parties.
22. The Executive Council shall, in accordance with its powers and functions, review the final report of the inspection team as soon as it is presented, and address any concerns as to:
  - (a) Whether any non-compliance has occurred;
  - (b) Whether the request had been within the scope of this Convention; and
  - (c) Whether the right to request a challenge inspection had been abused.
23. If the Executive Council reaches the conclusion, in keeping with its powers and functions, that further action may be necessary with regard to paragraph 22, it shall take the appropriate measures to redress the situation and to ensure compliance with this Convention, including specific recommendations to the Conference. In the case of abuse, the Executive Council shall examine whether the requesting State Party should bear any of the financial implications of the challenge inspection.
24. The requesting State Party and the inspected State Party shall have the right to participate in the review process. The Executive Council shall inform the States Parties and the next session of the Conference of the outcome of the process.
25. If the Executive Council has made specific recommendations to the Conference, the Conference shall consider action in accordance with Article XII.

## ANNEX ON IMPLEMENTATION AND VERIFICATION (“VERIFICATION ANNEX”)

### Part X: Challenge Inspections Pursuant To Article IX

#### A. DESIGNATION AND SELECTION OF INSPECTORS AND INSPECTION ASSISTANTS

1. Challenge inspections pursuant to Article IX shall only be performed by inspectors and inspection assistants especially designated for this function. In order to designate inspectors and inspection assistants for challenge inspections pursuant to Article IX, the Director-General shall, by selecting inspectors and inspection assistants from among the inspectors and inspection assistants for routine inspection activities, establish a list of proposed inspectors and inspection assistants. It shall comprise a sufficiently large number of inspectors and inspection assistants having the necessary qualification, experience, skill and training, to allow for flexibility in the selection of the inspectors, taking into account their availability, and the need for rotation. Due regard shall be paid also to the importance of selecting inspectors and inspection assistants on as wide a geographical basis as possible. The designation of inspectors and inspection assistants shall follow the procedures provided for under Part II, Section A, of this Annex.
2. The Director-General shall determine the size of the inspection team and select its members taking into account the circumstances of a particular request. The size of the inspection team shall be kept to a minimum necessary for the proper fulfillment of the inspection mandate. No national of the requesting State Party or the inspected State Party shall be a member of the inspection team.

#### B. PRE-INSPECTION ACTIVITIES

3. Before submitting the inspection request for a challenge inspection, the State Party may seek confirmation from the Director-General that the Technical Secretariat is in a position to take immediate action on the request. If the Director-General cannot provide such confirmation immediately, he shall do so at the earliest opportunity, in keeping with the order of requests for confirmation. He shall also keep the State Party informed of when it is likely that immediate action can be taken. Should the Director-General

reach the conclusion that timely action on requests can no longer be taken, he may ask the Executive Council to take appropriate action to improve the situation in the future.

#### *Notification*

4. The inspection request for a challenge inspection to be submitted to the Executive Council and the Director-General shall contain at least the following information:
  - (a) The State Party to be inspected and, if applicable, the Host State;
  - (b) The point of entry to be used;
  - (c) The size and type of the inspection site;
  - (d) The concern regarding possible non-compliance with this Convention including a specification of the relevant provisions of this Convention about which the concern has arisen, and of the nature and circumstances of the possible non-compliance as well as all appropriate information on the basis of which the concern has arisen; and
  - (e) The name of the observer of the requesting State Party.The requesting State Party may submit any additional information it deems necessary.
5. The Director-General shall within one hour acknowledge to the requesting State Party receipt of its request.
6. The requesting State Party shall notify the Director-General of the location of the inspection site in due time for the Director-General to be able to provide this information to the inspected State Party not less than 12 hours before the planned arrival of the inspection team at the point of entry.
7. The inspection site shall be designated by the requesting State Party as specifically as possible by providing a site diagram related to a reference point with geographic coordinates, specified to the nearest second if possible. If possible, the requesting State Party shall also provide a map with a general indication of the inspection site and a diagram specifying as precisely as possible the requested perimeter of the site to be inspected.
8. The requested perimeter shall:
  - (a) Run at least a 10 metre distance outside any buildings or other structures;

- (b) Not cut through existing security enclosures; and
  - (c) Run at least a 10 metre distance outside any existing security enclosures that the requesting State Party intends to include within the requested perimeter.
9. If the requested perimeter does not conform with the specifications of paragraph 8, it shall be redrawn by the inspection team so as to conform with that provision.
  10. The Director-General shall, not less than 12 hours before the planned arrival of the inspection team at the point of entry, inform the Executive Council about the location of the inspection site as specified in paragraph 7.
  11. Contemporaneously with informing the Executive Council according to paragraph 10, the Director-General shall transmit the inspection request to the inspected State Party including the location of the inspection site as specified in paragraph 7. This notification shall also include the information specified in Part II, paragraph 32, of this Annex.
  12. Upon arrival of the inspection team at the point of entry, the inspected State Party shall be informed by the inspection team of the inspection mandate.

*Entry into the territory of the inspected State Party or the Host State*

13. The Director-General shall, in accordance with Article IX, paragraphs 13 to 18, dispatch an inspection team as soon as possible after an inspection request has been received. The inspection team shall arrive at the point of entry specified in the request in the minimum time possible, consistent with the provisions of paragraphs 10 and 11.
14. If the requested perimeter is acceptable to the inspected State Party, it shall be designated as the final perimeter as early as possible, but in no case later than 24 hours after the arrival of the inspection team at the point of entry. The inspected State Party shall transport the inspection team to the final perimeter of the inspection site. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in this paragraph for the designation of the final perimeter. Transportation shall, in any case, be completed not later than

- 36 hours after the arrival of the inspection team at the point of entry.
15. For all declared facilities, the procedures in subparagraphs (a) and (b) shall apply. (For the purposes of this Part, “declared facility” means all facilities declared pursuant to Articles III, IV, and V. With regard to Article VI, “declared facility” means only facilities declared pursuant to Part VI of this Annex, as well as declared plants specified by declarations pursuant to Part VII, paragraphs 7 and 10 (c), and Part VIII, paragraphs 7 and 10 (c), of this Annex.)
    - (a) If the requested perimeter is contained within or conforms with the declared perimeter, the declared perimeter shall be considered the final perimeter. The final perimeter may, however, if agreed by the inspected State Party, be made smaller in order to conform with the perimeter requested by the requesting State Party.
    - (b) The inspected State Party shall transport the inspection team to the final perimeter as soon as practicable, but in any case shall ensure their arrival at the perimeter not later than 24 hours after the arrival of the inspection team at the point of entry.

*Alternative determination of final perimeter*

16. At the point of entry, if the inspected State Party cannot accept the requested perimeter, it shall propose an alternative perimeter as soon as possible, but in any case not later than 24 hours after the arrival of the inspection team at the point of entry. In case of differences of opinion, the inspected State Party and the inspection team shall engage in negotiations with the aim of reaching agreement on a final perimeter.
17. The alternative perimeter should be designated as specifically as possible in accordance with paragraph 8. It shall include the whole of the requested perimeter and should, as a rule, bear a close relationship to the latter, taking into account natural terrain features and man-made boundaries. It should normally run close to the surrounding security barrier if such a barrier exists. The inspected State Party should seek to establish such a relationship between the perimeters by a combination of at least two of the following means:
  - (a) An alternative perimeter that does not extend to an area significantly greater than that of the requested perimeter;

- (b) An alternative perimeter that is a short, uniform distance from the requested perimeter;
  - (c) At least part of the requested perimeter is visible from the alternative perimeter.
18. If the alternative perimeter is acceptable to the inspection team, it shall become the final perimeter and the inspection team shall be transported from the point of entry to that perimeter. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in paragraph 16 for proposing an alternative perimeter. Transportation shall, in any case, be completed not later than 36 hours after the arrival
  19. If a final perimeter is not agreed, the perimeter negotiations shall be concluded as early as possible, but in no case shall they continue more than 24 hours after the arrival of the inspection team at the point of entry. If no agreement is reached, the inspected State Party shall transport the inspection team to a location at the alternative perimeter. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in paragraph 16 for proposing an alternative perimeter. Transportation shall, in any case, be completed not later than 36 hours after the arrival of the inspection team at the point of entry.
  20. Once at the location, the inspected State Party shall provide the inspection team with prompt access to the alternative perimeter to facilitate negotiations and agreement on the final perimeter and access within the final perimeter.
  21. If no agreement is reached within 72 hours after the arrival of the inspection team at the location, the alternative perimeter shall be designated the final perimeter.

#### *Verification of location*

22. To help establish that the inspection site to which the inspection team has been transported corresponds to the inspection site specified by the requesting State Party, the inspection team shall have the right to use approved location-finding equipment and have such equipment installed according to its directions. The inspection team may verify its location by reference to

local landmarks identified from maps. The inspected State Party shall assist the inspection team in this task.

#### *Securing the site, exit monitoring*

23. Not later than 12 hours after the arrival of the inspection team at the point of entry, the inspected State Party shall begin collecting factual information of all vehicular exit activity from all exit points for all land, air, and water vehicles of the requested perimeter. It shall provide this information to the inspection team upon its arrival at the alternative or final perimeter, whichever occurs first.
24. This obligation may be met by collecting factual information in the form of traffic logs, photographs, video recordings, or data from chemical evidence equipment provided by the inspection team to monitor such exit activity. Alternatively, the inspected State Party may also meet this obligation by allowing one or more members of the inspection team independently to maintain traffic logs, take photographs, make video recordings of exit traffic, or use chemical evidence equipment, and conduct other activities as may be agreed between the inspected State Party and the inspection team.
25. Upon the inspection team's arrival at the alternative perimeter or final perimeter, whichever occurs first, securing the site, which means exit monitoring procedures by the inspection team, shall begin.
26. Such procedures shall include: the identification of vehicular exits, the making of traffic logs, the taking of photographs, and the making of video recordings by the inspection team of exits and exit traffic. The inspection team has the right to go, under escort, to any other part of the perimeter to check that there is no other exit activity.
27. Additional procedures for exit monitoring activities as agreed upon by the inspection team and the inspected State Party may include, inter alia:
  - (a) Use of sensors;
  - (b) Random selective access;
  - (c) Sample analysis.
28. All activities for securing the site and exit monitoring shall take place within a band around the outside of the perimeter, not exceeding 50 metres in width, measured outward.

29. The inspection team has the right to inspect on a managed access basis vehicular traffic exiting the site. The inspected State Party shall make every reasonable effort to demonstrate to the inspection team that any vehicle, subject to inspection, to which the inspection team is not granted full access, is not being used for purposes related to the possible non-compliance concerns raised in the inspection request.
30. Personnel and vehicles entering and personnel and personal passenger vehicles exiting the site are not subject to inspection.
31. The application of the above procedures may continue for the duration of the inspection, but may not unreasonably hamper or delay the normal operation of the facility.

#### *Pre-inspection briefing and inspection plan*

32. To facilitate development of an inspection plan, the inspected State Party shall provide a safety and logistical briefing to the inspection team prior to access.
33. The pre-inspection briefing shall be held in accordance with Part II, paragraph 37, of this Annex. In the course of the pre-inspection briefing, the inspected State Party may indicate to the inspection team the equipment, documentation, or areas it considers sensitive and not related to the purpose of the challenge inspection. In addition, personnel responsible for the site shall brief the inspection team on the physical layout and other relevant characteristics of the site. The inspection team shall be provided with a map or sketch drawn to scale showing all structures and significant geographic features at the site. The inspection team shall also be briefed on the availability of facility personnel and records.
34. After the pre-inspection briefing, the inspection team shall prepare, on the basis of the information available and appropriate to it, an initial inspection plan which specifies the activities to be carried out by the inspection team, including the specific areas of the site to which access is desired. The inspection plan shall also specify whether the inspection team will be divided into subgroups. The inspection plan shall be made available to the representatives of the inspected State Party and the inspection site. Its implementation shall be consistent with the

provisions of Section C, including those related to access and activities.

#### *Perimeter activities*

35. Upon the inspection team's arrival at the final or alternative perimeter, whichever occurs first, the team shall have the right to commence immediately perimeter activities in accordance with the procedures set forth under this Section, and to continue these activities until the completion of the challenge inspection.
36. In conducting the perimeter activities, the inspection team shall have the right to:
  - (a) Use monitoring instruments in accordance with Part II, paragraphs 27 to 30, of this Annex;
  - (b) Take wipes, air, soil or effluent samples; and
  - (c) Conduct any additional activities which may be agreed between the inspection team and the inspected State Party.
37. The perimeter activities of the inspection team may be conducted within a band around the outside of the perimeter up to 50 metres in width measured outward from the perimeter. If the inspected State Party agrees, the inspection team may also have access to any building or structure within the perimeter band. All directional monitoring shall be oriented inward. For declared facilities, at the discretion of the inspected State Party, the band could run inside, outside, or on both sides of the declared perimeter.

### C. CONDUCT OF INSPECTIONS

#### *General rules*

38. The inspected State Party shall provide access within the requested perimeter as well as, if different, the final perimeter. The extent and nature of access to a particular place or places within these perimeters shall be negotiated between the inspection team and the inspected State Party on a managed access basis.
39. The inspected State Party shall provide access within the requested perimeter as soon as possible, but in any case not later than 108 hours after the arrival of the inspection team at the point of entry in order to clarify the concern regarding possible non-compliance with this Convention raised in the inspection request.



40. Upon the request of the inspection team, the inspected State Party may provide aerial access to the inspection site.
41. In meeting the requirement to provide access as specified in paragraph 38, the inspected State Party shall be under the obligation to allow the greatest degree of access taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures. The inspected State Party has the right under managed access to take such measures as are necessary to protect national security. The provisions in this paragraph may not be invoked by the inspected State Party to conceal evasion of its obligations not to engage in activities prohibited under this Convention.
42. If the inspected State Party provides less than full access to places, activities, or information, it shall be under the obligation to make every reasonable effort to provide alternative means to clarify the possible non-compliance concern that generated the challenge inspection.
43. Upon arrival at the final perimeter of facilities declared pursuant to Articles IV, V and VI, access shall be granted following the pre-inspection briefing and discussion of the inspection plan which shall be limited to the minimum necessary and in any event shall not exceed three hours. For facilities declared pursuant to Article III, paragraph 1 (d), negotiations shall be conducted and managed access commenced not later than 12 hours after arrival at the final perimeter.
44. In carrying out the challenge inspection in accordance with the inspection request, the inspection team shall use only those methods necessary to provide sufficient relevant facts to clarify the concern about possible non-compliance with the provisions of this Convention, and shall refrain from activities not relevant thereto. It shall collect and document such facts as are related to the possible non-compliance with this Convention by the inspected State Party, but shall neither seek nor document information which is clearly not related thereto, unless the inspected State Party expressly requests it to do so. Any material collected and subsequently found not to be relevant shall not be retained.
45. The inspection team shall be guided by the principle of conducting the challenge inspection in

the least intrusive manner possible, consistent with the effective and timely accomplishment of its mission. Wherever possible, it shall begin with the least intrusive procedures it deems acceptable and proceed to more intrusive procedures only as it deems necessary.

#### *Managed access*

46. The inspection team shall take into consideration suggested modifications of the inspection plan and proposals which may be made by the inspected State Party, at whatever stage of the inspection including the pre-inspection briefing, to ensure that sensitive equipment, information or areas, not related to chemical weapons, are protected.
47. The inspected State Party shall designate the perimeter entry exit points to be used for access. The inspection team and the inspected State Party shall negotiate: the extent of access to any particular place or places within the final and requested perimeters as provided in paragraph 48; the particular inspection activities, including sampling, to be conducted by the inspection team; the performance of particular activities by the inspected State Party; and the provision of particular information by the inspected State Party.
48. In conformity with the relevant provisions in the Confidentiality Annex the inspected State Party shall have the right to take measures to protect sensitive installations and prevent disclosure of confidential information and data not related to chemical weapons. Such measures may include, inter alia:
  - (a) Removal of sensitive papers from office spaces;
  - (b) Shrouding of sensitive displays, stores, and equipment;
  - (c) Shrouding of sensitive pieces of equipment, such as computer or electronic systems;
  - (d) Logging off of computer systems and turning off of data indicating devices;
  - (e) Restriction of sample analysis to presence or absence of chemicals listed in Schedules 1, 2 and 3 or appropriate degradation products;
  - (f) Using random selective access techniques whereby the inspectors are requested to select a given percentage or number of buildings of their choice to inspect; the same principle can apply to the interior and content of sensitive buildings;

- (g) In exceptional cases, giving only individual inspectors access to certain parts of the inspection site.
- 49. The inspected State Party shall make every reasonable effort to demonstrate to the inspection team that any object, building, structure, container or vehicle to which the inspection team has not had full access, or which has been protected in accordance with paragraph 48, is not used for purposes related to the possible non-compliance concerns raised in the inspection request.
- 50. This may be accomplished by means of, *inter alia*, the partial removal of a shroud or environmental protection cover, at the discretion of the inspected State Party, by means of a visual inspection of the interior of an enclosed space from its entrance, or by other methods.
- 51. In the case of facilities declared pursuant to Articles IV, V and VI, the following shall apply:
  - (a) For facilities with facility agreements, access and activities within the final perimeter shall be unimpeded within the boundaries established by the agreements;
  - (b) For facilities without facility agreements, negotiation of access and activities shall be governed by the applicable general inspection guidelines established under this Convention;
  - (c) Access beyond that granted for inspections under Articles IV, V and VI shall be managed in accordance with procedures of this section.
- 52. In the case of facilities declared pursuant to Article III, paragraph 1 (d), the following shall apply: if the inspected State Party, using procedures of paragraphs 47 and 48, has not granted full access to areas or structures not related to chemical weapons, it shall make every reasonable effort to demonstrate to the inspection team that such areas or structures are not used for purposes related to the possible non-compliance concerns raised in the inspection request.

*Observer*

- 53. In accordance with the provisions of Article IX, paragraph 12, on the participation of an observer in the challenge inspection, the requesting State Party shall liaise with the Technical

Secretariat to coordinate the arrival of the observer at the same point of entry as the inspection team within a reasonable period of the inspection team's arrival.

- 54. The observer shall have the right throughout the period of inspection to be in communication with the embassy of the requesting State Party located in the inspected State Party or in the Host State or, in the case of absence of an embassy, with the requesting State Party itself. The inspected State Party shall provide means of communication to the observer.
- 55. The observer shall have the right to arrive at the alternative or final perimeter of the inspection site, wherever the inspection team arrives first, and to have access to the inspection site as granted by the inspected State Party. The observer shall have the right to make recommendations to the inspection team, which the team shall take into account to the extent it deems appropriate. Throughout the inspection, the inspection team shall keep the observer informed about the conduct of the inspection and the findings.
- 56. Throughout the in-country period, the inspected State Party shall provide or arrange for the amenities necessary for the observer such as communication means, interpretation services, transportation, working space, lodging, meals and medical care. All the costs in connection with the stay of the observer on the territory of the inspected State Party or the Host State shall be borne by the requesting State Party.

*Duration of inspection*

- 57. The period of inspection shall not exceed 84 hours, unless extended by agreement with the inspected State Party.

D. POST-INSPECTION ACTIVITIES

*Departure*

- 58. Upon completion of the post-inspection procedures at the inspection site, the inspection team and the observer of the requesting State Party shall proceed promptly to a point of entry and shall then leave the territory of the inspected State Party in the minimum time possible.



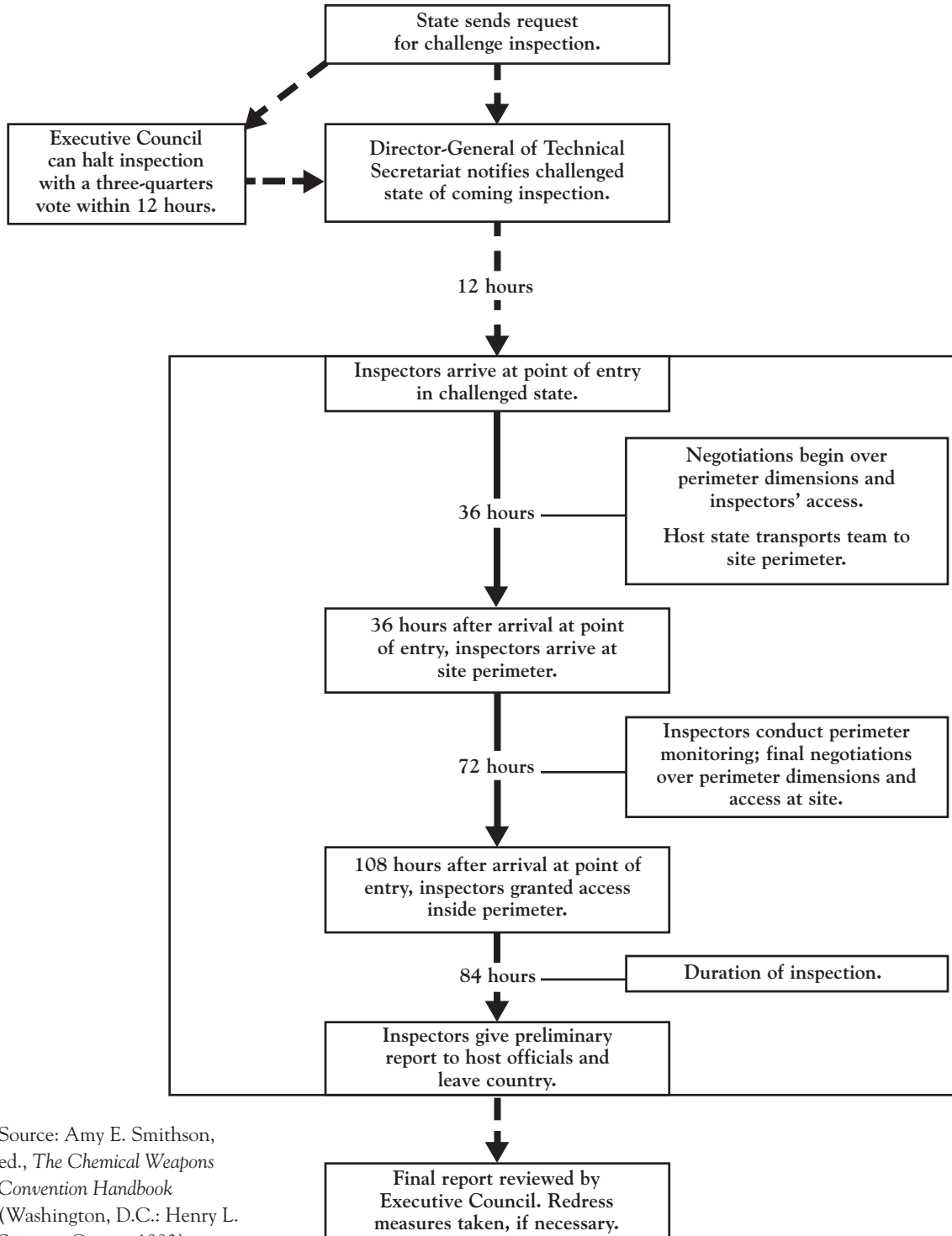
*Reports*

59. The inspection report shall summarize in a general way the activities conducted by the inspection team and the factual findings of the inspection team, particularly with regard to the concerns regarding possible non-compliance with this Convention cited in the request for the challenge inspection, and shall be limited to information directly related to this Convention. It shall also include an assessment by the inspection team of the degree and nature of access and cooperation granted to the inspectors and the extent to which this enabled them to fulfill the inspection mandate. Detailed information relating to the concerns regarding possible non-compliance with this Convention cited in the request for the challenge inspection shall be submitted as an Appendix to the final report and be retained within the Technical Secretariat under appropriate safeguards to protect sensitive information.
60. The inspection team shall, not later than 72 hours after its return to its primary work location,

submit a preliminary inspection report, having taken into account, inter alia, paragraph 17 of the Confidentiality Annex, to the Director-General. The Director-General shall promptly transmit the preliminary inspection report to the requesting State Party, the inspected State Party and to the Executive Council.

61. A draft final inspection report shall be made available to the inspected State Party not later than 20 days after the completion of the challenge inspection. The inspected State Party has the right to identify any information and data not related to chemical weapons which should, in its view, due to its confidential character, not be circulated outside the Technical Secretariat. The Technical Secretariat shall consider proposals for changes to the draft final inspection report made by the inspected State Party and, using its own discretion, wherever possible, adopt them. The final report shall then be submitted not later than 30 days after the further distribution and consideration in accordance with Article IX, paragraphs 21 to 25.

## TIMELINE FOR CHALLENGE INSPECTIONS



Source: Amy E. Smithson, ed., *The Chemical Weapons Convention Handbook* (Washington, D.C.: Henry L. Stimson Center, 1993).





