

CWC CSP-24 Report

Conclusion of the general debate and the Schedule amendment decision(s)

The third day of the CWC Conference of States Parties (CSP) saw the final statements in the general debate, the decision to adopt the two Schedule amendment proposals, and the formal presentation of the 2020 budget proposal but consensus was not reached on this.

Final themes from the general debate

The statements in the general debate on Wednesday were from: Lao DPR, Canada, Belarus, Hungary, Singapore, Holy See, Nigeria, Estonia, Ecuador, Latvia, Gambia, Costa Rica, Mexico, Angola, Jamaica, Chile, Denmark, Ethiopia, Thailand, Qatar, South Africa, Burkina Faso, Senegal, Nepal, Mauritius, Venezuela, Ghana, El Salvador and Israel [as a signatory], with rights of reply from State of Palestine, Syria and Saudi Arabia. There were also statements from the OPCW Advisory Board on Education and Outreach and from the International Union of Pure and Applied Chemistry (IUPAC). The CSP had made a decision to allocate an hour to hear statements from NGOs, although after one hour and nine minutes, there had not been time to hear all of them. However, all NGO statements will be placed on the OPCW website. The themes discussed here take details from statements during the whole general debate and should be read in conjunction with the themes discussed in the previous two daily reports.

Specific points raised on Wednesday included a request by Venezuela for voting by the CSP on membership of the Executive Council for the next cycle owing to disagreements in the regional group. The right of reply statements mostly reflected political issues related to the Middle East.

Financial matters – a number of statements criticized that there had been an “omnibus” financial package to be adopted as a whole. This included the budget for 2020 and the decision to move to a biannual financial planning cycle. As well as controversies over funding the Investigation and Identification Team (IIT) following the June 2018 decision, there were questions whether a small 2017 cash surplus should be returned to states parties rather than be allocated to other purposes. There were calls for all assessed contributions to be paid in full and on time to enable more efficient financial planning.

Loss of consensus and the revitalized facilitation framework – there were numerous expressions of regret of a lack of a consensus outcome from the Fourth Review Conference last year. Many delegations spoke with appreciation for the efforts of Ambassador I Gusti Agung Wesaka Puja (Indonesia) and Ambassador Agustín Vásquez Gómez (El Salvador) as co-facilitators on consultations on future priorities. Both had played key roles in the Review Conference as Chair of the preparatory Open-Ended Working Group and as Chair of the Review Conference itself, respectively. The move to what has been described as a revitalized facilitation framework has been carried out in association with the Chair of the Executive Council, Ambassador Andrea Perugini (Italy).

The Schedule amendment decision

The two proposals to add families of chemicals to Schedule 1 of the Convention were considered by the CSP at the same time. One had been proposed by Canada, the Netherlands and the USA, the other by Russia. After all of the challenges during the last year, the formal proceedings were over in few seconds as no delegation wished to take the floor and both proposals were adopted in parallel by consensus, together with a spontaneous round of applause, perhaps reflecting a release of tensions around this issue.

As it was one fall of the gavel to adopt both proposals, it was one decision to take two decisions. The Director-General told delegations that in the coming days he would generate the formal notification to inform states parties and the UN Secretary-General (as the Depositary of the Convention) of the decision to adopt the two proposals. Under subparagraph 5(g) of Article XV of the Convention, the Schedule changes will enter into force for all States Parties 180 days from the date of this formal notification. There is no action required by states parties in relation to the Depositary. He noted that the Secretariat would issue guidance for states parties regarding implementation of the changes.

The budget discussion

When the budget proposals were put to the CSP Russia and China took the floor making forceful statements, expressing dissatisfaction. Russia suggested that the draft budget process be paused to allow for further consultations. The USA suggested that the objections were based on a desire not to implement the June 2018 attribution mechanism decision and called for a roll-call vote which will be held on Thursday afternoon.

Background note: aerosolized use of central nervous system-acting chemicals

Numerous statements were made during the general debate in support of efforts by Australia, Switzerland and the USA to prepare a draft decision that would result in a statement that aerosolized use of central nervous system-acting chemicals was inconsistent with law enforcement purposes as a “purpose not prohibited” under the Convention. This debate has many facets and a long history. There are ambiguous terms in the CWC which are not there by accident, but appeared as part of the compromises needed to reach consensus on the whole text. Of these, a key term is “law enforcement”, although there is not space to cover that aspect here.

The central nervous system (CNS) is essentially the brain and spinal cord. In humans it is key to consciousness. “CNS-acting chemicals” is the term that has been used in recent debates as it is considered a more useful term than “incapacitants” or “incapacitating chemical agents” which were far less precise.

The Scientific Advisory Board (SAB) has looked at related issues many times. For example, in a 2003 report it suggested that what were commonly described at the time as “non-lethal” agents “should be monitored and assessed in terms of their relevance to the Convention. However, based on past experience and the fact that many of these compounds act on the central nervous system, it appears unlikely from a scientific point of view that compounds with a sufficient safety ratio would be found.” [RC-1/DG.2, 23 April 2003] A 2008 SAB report said: “One area in drug research that is causing some concern involves compounds that could be developed legitimately within the constraints of the Convention as non-lethal agents for law-enforcement purposes. Such compounds clearly have dual-use potential. The accelerated discovery of drugs has resulted in the identification of many new compounds that act very selectively on the central nervous system”. [RC-2/DG.1, 28 February 2008]

The way terminology was used evolved over time. For example: “Incapacitants are chemical agents which act on the central nervous system and impair cognition, perception and consciousness” [Switzerland, RC-2/NAT.12, 9 April 2008] and: “By ‘incapacitating chemical agents’ we mean toxic chemicals for law enforcement purposes that are not riot control agents and act on the central nervous system”. [Switzerland, plenary statement, RC-3, 9 April 2013]

Australia, suggesting that the “incapacitants” terminology was limiting debate, introduced the term “CNS-acting chemicals”. [C-19/NAT.1, 14 November 2014] This paper is recommended reading for anyone having to consider policy on this issue.

The issue of CNS-acting chemicals was a major topic of discussion at the Third CWC Review Conference in 2013, using the incapacitant terminology. The daily reports from that Conference are available at the website referred to below.

This is the fourth report from the Conference of States Parties (CSP) for the Chemical Weapons Convention being held in The Hague from 25 to 29 November 2019. These reports are written by Richard Guthrie of CBW Events on behalf of the CWC Coalition on NGOs. The reports are available at <<<http://www.cbw-events.org.uk/cwc-rep.html>>>. The author can be contacted via <<richard@cbw-events.org.uk>>.