INDIA AND CHEMICAL WEAPONS CONVENTION

An Overview

All multilateral negotiating bodies pertaining to the weapons of mass destruction (WMD) such as the Eighteen Nation Committee on Disarmament (ENDC), the Committee on Disarmament and, since 1984, the Conference on Disarmament (CD) have continued negotiations on a total ban on chemical weapons. Years of persistent endeavours by the international community to outlaw two categories of weapons of mass destruction, namely, biological and chemical weapons, resulted in the conclusion of the Biological Weapons Convention (BWC) -- the first multilateral disarmament treaty banning an entire category of weapons of mass destruction, and the Chemical Weapons Convention (CWC), the first such treaty to be negotiated completely within a multilateral disarmament forum, the Conference on Disarmament (CD). The United Nations has sought to promote universal participation in the two instruments and compliance with their provisions ever since they were opened for signature in 1972 and 1993 respectively. In addition, states have continuously reaffirmed the necessity of upholding the principles and objectives of the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating Poisonous or Other Gases, and of Bacteriological Methods of Warfare.¹

The principal thrust of this chapter is on the impact of domestic or governmental context on negotiation in respect of the CWC. Constraints, opportunities for change, dynamics and functional role of diplomacy take centre-stage of analysis. The styles and substance of India's diplomacy vis-à-vis the Chemical Weapons Convention (CWC) is the bedrock of this chapter. Legal nuances and diplomatic niceties are intertwined in the CWC negotiations.

The ongoing attempts to develop and implement effectively appropriate policies are the crux of what governments do in the domain of chemical weapons.² The case study of

¹ The UN Disarmament Yearbook, 2001 (New York: Department for Disarmament Affairs, 2002), p.49.
² To get a perfect and clear-cut answer, see Benoit Morel and Kyle Olson, Shadows and Substance: The Chemical Weapons Convention (Boulder: Westview Press, 1993), pp.1-55. Chapter-9 (pp.155-80) deals with how the United States constitution will affect the implementation of the Chemical Weapons (continued...
the Chemical Weapons Convention (CWC) invariably provides and shows a clear example of how arms control treaties that appear to be non-controversial and to the benefit of all concerned can have trouble being ratified because of governmental context. A multi-level, multi-issue perspective is needed because the changing global political scene cannot be reduced to a simple vision focussing on a single set of issues. Because international affairs includes many types of actors and activities, a comprehensive worldview that takes all of them and their interactions into account is required. Such a perspective is useful, furthermore, because it not only takes into account the interaction of constancy and change, but it also avoids dwelling on any particular events, countries, individuals, or other transitory phenomena whose long-term significance is likely to diminish. Instead, the perspective seeks to identify behaviours that join into general global patterns, trends and transformations that measurably affect globally. Thus, the exploration on the nature of world politics from a perspective that places general patterns into a larger, lasting theoretical context.

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3 For a detailed analysis on governmental context, politics as a science of power thoroughly developed by Harold D. Lasswell, in his celebrated work, Politics: Who Gets, What, When, How (1936) proved a landmark in the empirical approach to politics as the study and analysis of power.

4 For a nuanced understanding on global political scene, and world politics, see Charles W. Kegley, Jr., and Eugene R. Wittkopf, World Politics: Trend and Transformation (7th edn.) (New York: St. Martin's 1999), pp.11-12.

5 With respect to the Chemical Weapons Convention, a dynamic and multilateral perspective fits well with a distinction of three levels of analysis is pertinent. The style of diplomacy at this multiple levels are self-evident. The classification distinguishes: (1) individuals, (2) States or other world political actors, and (3) the entire global system. The individual level of analysis refers to the personal characteristics of humans, including average citizen whose behaviour has important political consequences and those responsible for making important decisions on behalf of state and non-state actors. Here, for example, we may properly locate the impact of individuals' images on their political attitudes, beliefs, and behaviour, and explore the question of why each human being is a crucial part of the global drama, and why the study of world politics is relevant to us. The state level of analysis consists of the authoritative decision-making units that govern states' foreign policy processes and the internal attributes of those states (e.g., their type of government, level of economic and military power, and number of nationality groups), which both shape and constrain leaders' foreign policy choices. The processes by which states make decisions regarding war and peace and their capabilities for carrying out their decisions, for instance, fall within the state level of analysis. The global level of analysis refers to interactions of states and non-state global actors whose behaviours ultimately shape the international political system and the levels of conflict and cooperation that characterize world politics. The capacity of rich states to dictate the choices of poor states properly falls within the global level of analysis. So does the capacity (or incapacity) of the United Nations to maintain peace.

Detailed discourse on the values of peace, security and cooperation are relevant pertaining to chemical weapons. To give more insight to this at theoretical plane, see Kenneth N. Waltz, Theory of International Politics (New York: Random House, 1979); Carl on Clausewitz, On War (New Jersey: Princeton University Press, 1976); Immanuel Kant, Perpetual Peace (London: George Allen & Unwin, 1917); Herman Kahn, Thinking About the Unthinkable (New York: Horizon Press, 1962); Robert O. Keohane, (continued...
India's Disarmament Diplomacy: A Broader Perspective on General and Complete Disarmament

Disarmament is one of the specific issues with which the United Nations has been concerned since its very inception. The founding members entrusted the United Nations with specific responsibilities in connection with the regulation of armaments and disarmament. Under Article 11(1) of the United Nations Charter, the United Nations General Assembly (UNGA) has the power to consider general principles which governing disarmament and the regulation of armaments and to make recommendations to members or to Security Council in that regard. Under Article 26 of the UN Charter, the General Assembly empowers the United Nations Security Council (UNSC) to formulate the necessary plans for the establishment of a system for the regulation of armaments. It is natural that as a member of the United Nations, India should react to, and make positions clear on arms control and disarmament, and other related questions upon it from time to time before the UN.

India evinced keen interest in the disarmament negotiations. India's independence almost coincided with the beginning of the Cold War between the two Power blocs - the USA and the USSR. The disarmament were also conditioned by the atmosphere of the Cold War and were, in fact, regarded by the Powers concerned as a weapon to be used in the Cold War. Instead of trying to reach agreement, the two power blocs made use of the negotiations to do propaganda against each other. Such an attitude was hardly

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conducive to the conclusion of an agreement on disarmament. In the pursuit of its policy of non-alignment, India endeavored to eschew the approach and pressed for a consideration of the various matters characteristic of the Cold War connected with disarmament on their merits. The Soviet Union and the United States were wedded to opposite ideologies. Both countries held differing views on the issues involved in disarmament. As far as India is concerned, the divergent views of the two Superpowers, had itself faced. In the circumstances it adopted a policy of judging each question on its merits and of supporting such plans, ideas, and proposals as seemed conducive to the elimination of the causes that led to war. This is evident from the statement made by India’s delegate in New York on 19 September 1947, just one month after India’s independence. The statement reads:

"We in India, for our part, are aware of no compulsion to identify ourselves wholly, or to associate ourselves systematically, with either or any of the different groups. On the contrary, we consider it of paramount importance that the distance between them should be narrowed down. We believe that our conduct should conduce to that end, and that there are standards and principles and ideals that transcend merely national interests, that transcend the exigencies of the kind of power politics that has proved so calamitous in the past.

Accordingly, we shall offer our support to, or without it from the proposals submitted to us, solely in the light of our judgement of the merits of the case in question. We stand for peace, and will devote our resources and energy towards the abolition of all causes which lead to war. To those nations that work with this aim we shall gladly offer our full cooperation".

In a conflict-ridden world, where the Cold War and bipolarity were the order of the day, India adopted a non-aligned policy which was nowhere more manifest than in India’s role in disarmament negotiations. India declared that success of the disarmament talks dependent on their being held in a "climate of peace". It, therefore, laid emphasis on reduction of tensions for achieving the goal of disarmament. Its major concern was to narrow the differences between the two power blocs. India adopted a working formula:

"Do nothing that will contribute to the further enlargement or entrenchment of the climate of war, but do everything possible towards its shrinkage and disestablishment". (Emphasis added)

India’s decision to remain non-aligned should be viewed from this angle. If India would have joined either of the power blocs, it would have been a party to the arms race going

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on between the Eastern and Western blocs and would have impaired its sovereignty for
one thing. In the absence of adequate military strength, India would have also lost its
moral power of influencing disarmament talks. At the same time, India was willing, as
stated by Nehru, "to limit, in common with other countries, our independence of action
for the common good of the world... provided we are assured that it is for the common
good of the world not exercised in a partial way, not dominated over a certain
countries, however good their motives might be". 11

The question of disarmament came up for consideration before the UN was a difficult
one. If it had been just a matter of formulating a finely worded resolution, it would
easily have been solved. It was not difficult to outvote the big nations on the issue of
disarmament in the UN through the combined efforts of smaller or not-so powerful
nations. The difficulty lay in ensuring that the big nations respected the majority
decisions on the issue. 12 The question was primarily one of agreement and confidence
between the big powers. Since tension caused the arms race and the arms race in turn
caused more tension, India aimed to break this vicious circle by emphasizing the need
to reduce tension. Accordingly, India appealed to the great powers neither to speak "in
the language of war or threats" 13 nor to use Cold War phraseology. New Delhi
opposed the use of the disarmament question for propaganda purposes and desired the
powers concerned to engage themselves in serious negotiations in order to arrive at any
amicable settlement not by majority voting but by consensus. India was convinced that
the disarmament question could only be solved by the USA and the USSR by mutual
agreement. 14 India, therefore, emphasized the areas of common agreement, suggested
ways to facilitate an agreement often by marrying the proposals of the two sides, and


12 Addressing the World Federalist Conference in New Delhi on 4 September 1963, Prime Minister,
Jawaharlal Nehru, said: "Disarmament is hardly a question which you can decide by votes in the United
nations. All the smaller nations, or the relatively not so powerful nations can easily outvote the big nations,
but the big nations will not agree to that. They will not disarm by the majority vote, though they are
influenced, no doubt, by majority opinion. So one looks forward to big nations coming to an agreement
among themselves, aided no doubt, by the advice and influence of others, but essentially by themselves". Jawaharlal Nehru's Speeches (New Delhi: Government of India, Publications Division, 1964), vol.5, p.204.

(Delhi, 1961), p.185.

14 See Nehru's statement in the Rajya Sabha, 4 September 1957. Jawaharlal Nehru, India's Foreign Policy:
tried to conciliate differences between them. We desisted from submitting a disarmament plan of our own, though on various occasions we put forward compromise formulas and specific suggestions.\textsuperscript{15} A full-fledged disarmament plan was not considered practical because "the two sides were already too strong to be deterred by the third force" as Krishna Menon put it. Speaking on this aspect of the disarmament problem, Prime Minister Nehru stated:

"This question cannot be solved by majority voting. It has to be solved ultimately by the United States and by the Soviet Union, as well as by other powers like the United Kingdom that possess these weapons and some others who may possess them".\textsuperscript{16}

A solution of the disarmament problem thus depended essentially on agreement between the Soviet Union and the United States, the two most powerful states of the world. India's suggestion that there was need to find a basis for agreement between the big powers was very realistic because it was not possible to dictate terms to the countries which were directly involved. Moreover, only the states which were directly involved could deliver the goods. This does not mean that India did not visualize any role for small powers in the disarmament negotiations.\textsuperscript{17} The small powers could play a vital role in reconciling differences between the Great Powers by refraining from taking sides in the matters under dispute. As Menon once put it: "It could be hoped that small powers, instead of supporting either of the two camps, might act as catalytic agents".\textsuperscript{18}

While we endeavored to avoid taking sides with either of the two power blocs and to keep aloof from the East-West controversy, we were not indifferent to our own vital national interests. Thus, whenever it was found that our national interests were likely to be adversely affected, we did not hesitate to take a firm and forthright stand, to support the position taken by one or the other Great Powers at a given time and to oppose any plan, idea or proposal submitted by the Great Powers either singly or even jointly.

\textsuperscript{15} For a discussion, see J.P. Jain, \textit{India and Disarmament: Nehru Era - An Analytical Study}, vol.1 (New Delhi: Radiant Publishers, 1974).

\textsuperscript{16} Nehru, \textit{India's Foreign Policy: 1946-1961}, n.15, p.201.

\textsuperscript{17} Speaking before the UN General Assembly, Krishna Menon said: "My Government is of view that small powers can also play useful role in disarmament talks. They make their contributions in many ways. They may offer their vigilance, their criticisms and their constructive approaches". UN General Assembly, 11th Session, 12 November 1956, p.572.

\textsuperscript{18} UN General Assembly, First Committee, 7th Session, 21 March 1953, p.498.
India considered arms control or the regulation of armaments as a desirable objective but we were never prepared to accept it as an end in itself. Arms control, as held, was a means to an end. It must, as stated lead to disarmament. Thus, in 1955 V.K. Krishna Menon criticized the Western Powers' resolution which laid greater stress on control measures than on disarmament. Jawaharlal Nehru explained the Indian attitude in that regard in these words:

There has been a general agreement for some time that it is relatively more easy to agree on measures geared to stop or slow the arms race than on arms reduction measures. Risks involved in achieving such (arms control) agreements is small and therefore without much mutual trust such agreements can be concluded. This is not to say it is easy to conclude them...but relatively less difficult than achieving agreement on disarmament measures...Implementation of arms control measures, either by agreement or by unilateral decisions, also have the effect of increasing mutual confidence and improving international climate, thus making agreement on arms reduction measures easy to achieve. Thus, we gradually more towards disarmament...and we shall support any step that will facilitate disarmament. However, I would like to stress that the objective of India is disarmament and we regard arms control as a means to achieve it. It is a step in that direction. It is important to seek agreement on arms control measures, especially when we have a situation in which disarmament has become a complex problem...But arms control is not disarmament and to make it an objective is to abandon the hope for disarmament. We cannot accept it. We have always stated we will support any arms control measure provided it creates conditions for achieving disarmament".  

On the curious argument as to which should come first - disarmament or effective controls -- Prime Minister Nehru’s answer had been as follows:

"Obviously, they have to come simultaneously. The countries concerned are not going to agree to disarm without proper controls, and controls cannot come without disarmament. Surely, what we want is full and complete disarmament. Inevitably, it can only be reached by phases, but the objective of full and complete disarmament must be kept in view. In any phasing or in any step that might be adopted in regard to this matter, core has to be taken that a certain balance is preserved between the rival groups of nations who fear each other. If at any time they fear that a step to be taken increases the striking force or the military force of the other group, then they will hesitate".  

When the world entered into nuclear age in 1945, the disarmament scenario changed. India had an important stake in an early agreement being reached by the powers concerned on disarmament matters since, with the advent of nuclear weapons, any largescale war was likely to affect not only those directly involved in the war, i.e., the combatants, but even the neutral countries far away from the scene of actual warfare. Unlike conventional warfare, the neutrals were not, in any way, immune from the

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20 Narayanan M. Ghatate's interview with Nehru in J.P. Jain, n.19, p.4.
dangers of a nuclear war. Moreover, the radio-active fall out resulting from atomic explosions had an adverse effect on the whole of mankind. It was, therefore, in India's national interest to see to it that a nuclear confrontation between the two Superpowers was avoided. Fully realizing the great destructiveness of nuclear weapons, India laid considerable stress on their prohibition and elimination. The small powers alone were capable of ensuring that the differences between the Great Powers did not widen to the point of no return. They alone were in a position to find a way out of any impasse in the disarmament talks by identifying points of agreement between the Great Powers. Great Powers alone could solve narrow differences on disarmament. India, therefore, did not deem it fit to present an independent general and complete disarmament plan of its own. Given this situation, the two sides were already too strong to be deterred by a third force, it rightly called for a spirit of compromise and concession in order to ensure that the disarmament talks made headway.

India had all along insisted on the inclusion or association of China in the disarmament process. As early as, the Indian representative, in his statement before the UN General Assembly, emphasized that without the participation of China, the disarmament discussions would remain largely unreal. The Indian representative referred to the fact that under the disarmament proposals under consideration, definite obligations would be imposed on China and asked: "But how can we require the fulfillment of these obligations and yet deny that government its rights under the UN Charter, one of which is the right to be represented in the United Nations?" To deny rights and, in the same breath, to insist on obligations "is clearly illogical and inconsistent", the Indian representative added. The reason why India desired China's association in the discussionis of plans for the reduction of armaments and armed forces was that Peking controlled "one of the most important armies in the world", as B.N. Rau observed in 1951.

In his statement before the First Committee of the UN General Assembly on 21 March 1953, Krishna Menon emphatically asserted that general disarmament was

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22 India's representative B.N. Rau’s statement to the UN General Assembly, 19 September 1950.

23 Ibid.
"inconceivable" as long as all those possessing armaments were not represented on the bodies discussing it. The participation of the Chinese Government was of capital importance, he emphasized. The whole problem of disarmament, he said, was entirely dependent upon the Great Powers, although it was not exclusively their concern. Only if those powers would be convinced to abandon contain types of weapons and scale down the general level of armaments was any measure of success likely. But it was neither realistic nor sensible, Menon pointed out, not to recognize that the Government of the People's Republic of China must at some stage participant in the consultations on disarmament. So long as China, a militarily significant state, continues to keep itself aloof from disarmament negotiations and not become a party to any disarmament agreement, Menon observed, other great powers would not feel sufficiently safe and could not think that the agreement was free from loopholes.

It is important to point out India's reaction to the Chinese Premier Chou En-lai's proposal of convening a world disarmament conference. After the Chinese hostility to India became quite manifest, India could not ignore the fact that China had the largest army in the world, not including the millions of armed men in the Chinese militia. Therefore, in reply to Chou En-lai's proposal of August 1963 about the complete prohibition and thorough destruction of nuclear weapons, Prime Minister Jawaharlal Nehru emphasized that nuclear disarmament was a part of the question of general and complete disarmament. A comprehensive treaty on disarmament must cover conventional weapons and forces as well as nuclear and thermonuclear weapons and their means of delivery. The treaty should also provide appropriate machinery for maintaining peace in a disarmed world. When China refused to subscribe to the

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24 India's representative to the UN General Assembly, V.K. Krishna Menon's statement, 21 March 1953.


27 The Chinese Prime Minister Chou En-lai, in his letter of 17 October 1964 addressed to Lal Bahadur Shastri, suggested "that a Summit Conference of all the countries of the world be convened to discuss the question of complete prohibition and thorough destruction of nuclear weapons and that as first step, the Summit Conference should reach an agreement to the effect that nuclear powers and those countries which may soon become nuclear powers undertake not to use nuclear weapons, neither to use them against non-nuclear weapons, neither to use them against non-nuclear countries and nuclear free zones, nor against each other". See Speeches of Lal Bahadur Shastri, June 1964-May 1965 (Delhi: Government of India, Publications Division, 1965), p.109.

Moscow Test Ban Treaty, India’s attitude towards Chou En-lai’s proposal for a world disarmament conference was based on a realistic assessment for the disarmament problem. Prime Minister Lal Bahadur Shastri, in a letter to the Prime Minister of China on 27 November 1964, stated:

The problems of general and complete disarmament, nuclear and conventional arms, are highly complicated matters which required a lot of detailed work and are not matters which could be debated and settled at a large conference of the kind proposed by His Excellency. By their very nature, these intricate issues need to be negotiated in smaller committees and often at the level of experts as is being done by the United Nations. It is essential that the treaty on general and complete disarmament should be subscribed by all. A Conference of the plenipotentiaries of the countries of the world could be useful only when substantial progress had been made in working out a draft treaty on general and complete disarmament.29

Thus, India ruled out as impractical the proposal to assign the task of concluding a treaty on a complicated matter like disarmament at a Summit conference. It was convinced that the need for such a conference could arise only when substantial progress in working out a draft treaty had been made at the level of experts and the small committees. The key to the problem of disarmament lay in the creation of trust and mutual confidence among states, especially the big powers, which possessed nuclear and other weapons. This called for continued efforts. Jawaharlal Nehru added that:

If world disarmament comes, the world is changed and we are far more secure than we would otherwise be. Obviously, there can be no world disarmament with any major country remaining armed. It is out of the question that even if the Soviet Union, United States of America, England, France and may be some other countries agree to disarmament and China does not, that is not disarmament. In fact, they will never agree to it. You cannot imagine the great or small powers leaving out of any pact on disarmament a mighty power and allowing it to keep all these armaments. It cannot happen. It is not disarmament. When we talk about disarmament, it must apply to all countries in appropriate measures.30

In the concluding session of the Non-aligned Nations Conference on 10 October 1964 in Cairo, the Indian Prime Minister Lal Bahadur Shastri asserted:

The policy of peaceful co-existence underlines our broad approach to international relations and we have proclaimed admirable principles which should govern the conduct of States in order to promote and to ensure world peace and security. We want a world where peace prevails and where there is freedom from fear of nuclear annihilation.31

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29 Prime Minister Lal Bahadur Shastri’s letter to the Chinese Prime Minister, see DG/PV7S, 4 May 1965, pp.4-5
India laid stress on the point that the problems of disarmament and international confidence were more closely linked. The cause of friction and suspicion should, therefore, be removed. India attached the highest importance to collateral measures by calling them "confidence-building steps".\(^{32}\) It was the logic of collateral measures that prompted India to support the Soviet proposal, made in 1962, for a "no aggression" pact between the Soviet Union and the United States. The issue underlying the proposal was really the issue of relations between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact countries. With a view to making some advance in that direction, India suggested that some "informal" exchanges should take place and that both countries should assure that the relations between the two blocs did not worsen to the point of open warfare. India held that general and complete disarmament did not mean indifference towards collateral measures. Collateral measures served the important function of probing areas in which relatively minor, but nonetheless significant, agreements might take place. These agreements, albeit small, created confidence. There might also be cases not requiring too much verification in the first instance. These cases would help create a body of experience which would be enlarged, step by step, as the world moved towards disarmament. An immediate realization of the goal of disarmament was not possible owing to deep-seated mistrust, suspicion, and international tension. It was, therefore, imperative to adopt a step by step approach. Thus, the value of collateral measures was obvious.

While expressing India's resolve to attach "great importance to collateral measures", the Indian representative stated:

My delegation has no rigid views on the question of priorities. We feel however that following measures should receive early consideration.

i. Non-dissemination of nuclear weapons;

ii. Verified nuclear free zones;

iii. The halting of the production of fissile material;

iv. Convention on the prohibition of nuclear weapons.\(^{33}\)

The collateral measures suggested by India related mainly to nuclear disarmament. Early agreement on these measures, besides reducing the threat of a nuclear war, could pave

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\(^{32}\) See, Eighteen Nation Disarmament Committee (ENDC), Document No. ENDC/PV 122, 5 December 1963, p.33.

the way for early achievement of the goal of general and complete disarmament. India's active support for collateral measures was motivated by the urgency of the problem also. Collateral measures primarily dealt with the question of nuclear disarmament as suggested earlier. And the question of nuclear disarmament, a matter of deep concern to the world. Moreover, agreement on such measures could help in bringing about improvement in the international atmosphere.

India expressed dissatisfaction with the type of approach of the big powers towards collateral measures. A disquieting feature of the discussions on collateral measures was the absence of any movement towards disarmament. The big powers insisted on collateral measures of a non-armament type, i.e., measures which did not touch upon their existing and fast-increasing arsenals of nuclear weapons in the garb of collateral measures, they made attempts to strengthen the nuclear monopoly of the big powers to the detriment of the interests of the smaller ones. It was difficult to understand how the cause of disarmament could be promoted by prohibiting smaller nations from developing nuclear technology even for peaceful purposes. The Indian representative stated:

> It is now time that we stop congratulating ourselves on the achievement of such partial non-armament measures. In order to ensure and inspire belief in our efforts it is essential that agreement be reached on those measures which would stop the armament race and lead to actual disarmament. 34

India supported the draft outline of a treaty on general and complete disarmament submitted by the United States of America and a draft treaty submitted by the Soviet Union because both included measures like non-proliferation within the framework of comprehensive disarmament. Collateral measures could not be considered in isolation. There was need to keep in mind the requirements of the ultimate goal of general and complete disarmament while discussing collateral measures. The big powers were clearly conceived as measure of disarmament and not as isolate or preliminary limitation to be imposed on small countries. The general and complete disarmament was not desirable to treat a particular collateral measure as an end in itself. Agreements on non-armament measures was not sufficient. It was necessary to reach agreement to those measures which would stop the arms race and lead to actual disarmament. 35 Collateral measures were undoubtedly important, but they could hardly serve as substitutes for

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34 India’s Ambassador Hussain’s Statement to the Committee of Conference on Disarmament (CCD), document no.CCD/PV 488, 18 August 1970, p.6.

35 For more details, see Ashwani Kumar Chopra, n.21, pp.25-27.
general and complete disarmament. After 1964 those engaged in the disarmament negotiations in Geneva developed a tendency to sidetrack the main issue of disarmament.

The big powers overlooked the basic task of the Eighteen-Nation Disarmament Committee (ENDC). The ENDC had been established for the specific purpose of negotiating a treaty on general and complete disarmament. India considered it necessary to remind the ENDC of its mandate. What India desired was that the Committee should not deviate from the path of considering the main problem of general and complete disarmament. The Indian representative stated:

> It is necessary to remind ourselves that ours is not an Eighteen-Nation Committee on arms control and arms limitation but a Committee on Disarmament; that we have been specifically constituted to negotiate a treaty on general and complete disarmament; and that the General Assembly of the United Nations has been asking us every year to resume our negotiations on general and complete disarmament with energy and determination.

One of the principal aims of the United Nations is to save succeeding generations from the scourge of war, could be achieved only by concluding an agreement on general and complete disarmament. India tried to impress upon other countries that they should not lose sight of the ultimate objective of general and complete disarmament. General and complete disarmament alone could provide an effective answer to the problems faced by the arms race. Moreover, disarmament was at the very root of the Principles and Purposes of the United Nations.

**India and Chemical Disarmament Negotiations**

The 1925 Geneva Protocol and associated international law, the practical effect of which was to prohibit at least the first use of chemical and biological warfare (CBW) weapons. The emerging dogma of deterrence gave them covert, for the spread of deterrence ideas had made people more inclined to believe that it was not the military shortcomings of toxic warfare which had kept it out of World War II, or the rather low level of institutional preparedness for it, but the threat of retaliation in kind. In other words, the

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36 The ENDC was given the clear mandate to start negotiations for achieving the goal of disarmament. Vide UN General Assembly Resolution 1722 (XVI) of 20 December 1961. The resolution reads: "The Committee, as a matter of utmost urgency, should undertake negotiations with a view to reaching agreement and general and complete disarmament under effective international control". The resolution was introduced jointly by the United States and the Soviet Union and was adopted unanimously.

37 India's ambassador V.C. Trivedi's statement, Eighteen Nation Disarmament Committee (ENDC), document no. ENDC/PV 261, 3 May 1966, p.20.
development and stockpiling of CBW weapons was an act of common prudence. India was concerned about the great threat posed by chemical warfare, especially by the discovery of highly toxic compounds such as "nerve agents" (a kind of chemical agents) which, if used, could poison the nervous system and disrupt vital body functions. Being potent, they could kill quickly as compared with other chemical agents. Then there were "blister", "choking" and "blood" agents. Blister agents could burn and blister the skin within hours after exposure. Choking agents could bring about death by injuring the lungs. Blood agents caused death by interfering with the utilization of oxygen by the tissues. The main cause of worry and urgency in this connection arose from the fact that these agents were more toxic as compared with the agents used in the First World War. Another cause of alarm was that they could be dispersed now by sophisticated kind of equipments.

Jawaharlal Nehru was quite candid when he remarked, in his statement before the United Nations General Assembly on 5 October 1960, that it was both convenient and desirable that disarmament matters be discussed in small groups by the countries which had most to disarm. Most of the UN member states, he stated, had "nothing...or practically nothing to disarm, although we are greatly interested in the disarmament of others so that war may not break out and destroy the world". Reacting to a US nuclear test in the Bikini Atoll, Nehru presented to the Indian Parliament what was to become India’s declared approach to weapon(s) of mass destruction:

"We have maintained that nuclear (including thermonuclear) chemical and biological (bacterial) knowledge and power should not be used to forge these weapons of mass destruction. We have advocated the prohibition of such weapons, by common consent, and immediately by agreement amongst those concerned. Pending progress towards some solution, full or partial, in respect of the prohibition and elimination of these weapons of mass destruction, the Government would consider, some sort of what may be called "standstill agreement" in respect of at least, of those actual explosions, even if agreements about the discontinuance of production and stockpiling must await more substantial agreements amongst those principally concerned."

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39 It was estimated that up to the end of the War in 1918, at least 1,25,000 tons of toxic chemicals were used, and according to official reports, gas casualties numbered about 13,00,000. Of these, about 1,00,000 were fatal. *Ibid.*, p.1.
41 Speech by Jawaharlal Nehru, *Lok Sabha* (New Delhi: 2 April 1954).
Nehru's eloquence marked a very pragmatic approach to India's problems, as recognized by George K. Tanham, a respected American scholar of the Rand Corporation, though at the time, many in the West were not so discerning. India's concept of disarmament was endorsed by the Belgrade Conference of Heads of State or Government of Non-Aligned States. The Conference was attended by Prime Minister Jawaharlal Nehru. The Declaration issued at the time of the conclusion of the Conference on 6 September 1961, stated:

"The Heads of State or Government point out that General and Complete disarmament should include, elimination of armed forces, armaments, foreign bases, manufacture of arms as well as elimination of institutions and installations for military training, except for the purpose of international security; and the total prohibition of production, possession and utilization of nuclear and thermonuclear arms, bacteriological and chemical weapons as well as the elimination of equipment and the installations for the delivery and placement and (National) operational use of weapons of mass destruction on national territories". 43

India welcomed the Soviet initiative on general and complete disarmament. In his statement Krishna Menon on 6 October 1959, described Khrushchev's proposed as creating a climate for peace. He pleaded for a change in the attitude towards war and laid stress on measures that would help in creating international confidence, such as the elimination of economic inequality and the abandonment of alliance diplomacy. 44 Subsequently, in a detailed statement on 2 November 1959, Krishna Menon very warmly welcomed the Soviet proposal on general and complete disarmament. He spoke of the general improvement in relations between the United States and the USSR and reiterated the views of the Government of India that any solution of the disarmament problem would require negotiations and ultimate agreement between the two Superpowers. On the question of an international police force, Menon said that this question could only be considered after disarmament had been realized. He could not visualize the setting up of such a force with large national armies still in existence. In concluding his statement, he made the following concrete suggestions: 45

(a) The meeting of the Ten-Nation Disarmament Committee should function under the umbrella of the Summit. In other words, if the Committee gets into a

42 For a detailed discussion, see George K. Tanham, Indian Strategic Concerns in the 1990s (New Delhi: Rajiv Gandhi Institute for Contemporary Studies, September 1995).
43 See Belgrade Declaration on General and Complete Disarmament (GCD), 6 September 1961. See also Foreign Affairs Record, September 1961, p.265.
deadlock, the matter should be taken up at the summit with a view to finding a solution.

(b) The Ten Nation Committee should have diplomatic connections with various Governments so that the whole world knew about the progress in the discussions in the Committee.

(c) A Peace Research Organization should be set up to consider the various problems that would arise in a warless world consequent upon general and complete disarmament.

(d) Individuals responsible for the violations of the international code, that would be established in the event of general and complete disarmament, should be tried by the respective countries under their own national law or by an international tribunal as the case may be for the violation on the analogy of the trials conducted in the Nuremberg after World War II.

(e) A ban should be placed on the export of capital, equipment and technical personnel to countries for setting up arms and armament manufacture.

(f) The Disarmament Commission should meet after six months and such a meeting should be at governmental level to study the various problems in the field of disarmament.

Chemical and biological agents could be used to cause disease and destroy human, animal, and plant life. One could get an idea of the terror of bacteriological (biological) warfare by trying to imagine what would happen if deliberate efforts were made, for military reasons, to propagate pathogenic organisms. India was of the opinion that once the door was opened to "this kind of warfare, escalation would in all likelihood occur, and no one could say where the process would end." 46 Thus, it was right to say that the existence of chemical and bacteriological (biological) weapons contributed to international tension and that their further development only spurred the arms race without contributing to the security of any nation.

Speaking in the Lok Sabha on 22 November 1960, Jawaharlal Nehru, stated that disarmament must be accompanied by effective controls and that they must come simultaneously. The countries concerned, he said, were not going to disarm without proper controls and controls could not come without disarmament. In short, India wanted full and complete disarmament. Inevitably, it can only be reached by phases, but the objective of general and complete disarmament must be kept in view. In any phasing or in any step that might be adopted in regard to that matter, Nehru added, care had to be taken that "certain balance is preserved between the rival groups of nations who fear each other" because if at any time "they fear that a step to be taken increases

the striking force or the military force of the other group, they will hesitate". During the 15th session in 1960, Krishna Menon described the idea of total disarmament -- a world without war -- as "no longer a Utopia". but "an imperative necessity". He sought to avert the deteriorating atmosphere in the US-Soviet relations consequent with the U-2 incident and the collapse of the Paris Summit Conference in May 1960, which had an adverse effect on disarmament matters. He laid stress on the large areas of agreement or near agreement, in spite of differences, between the two sides, particularly on the following five points:48

(a) Disarmament should be general and complete;
(b) It should be carried out in agreed stages and completed as rapidly as possible;
(c) Disarmament measures should be so balanced that neither side has at any time any significant military advantage;
(d) Such measures should be carried out under effective international control through the establishment of an organization within the United Nations; and
(e) There should be an international force within the UN for the maintenance of international peace and security.

The international community viewed with horror the advances being made in the sphere of chemical and biological methods of warfare because of their uncontrollably and unpredictably injurious effects to combatants and non-combatants alike. The 1925 Geneva Protocol had settled the question of prohibiting the use of asphyxiating, poisonous, or other gases in war. There was need to strengthen the protocol and to secure its acceptance by all states of the world. The Indian representative expressed India's support to the Genera Protocol of 1925 (which is the genesis of chemical talks) in the following words:

I reiterate the full support of the Government of India for total prohibition of the use of these weapons of mass destruction and the need for strict observance by all States of the principles and objectives of the Geneva Protocol of 1925 and accession thereto of those States which had not adhered.49

With a view to create propitious conditions for fruitful discussionis, India, along with 15 others, also submitted a draft resolution (A/L 320) expressing concern on the deterioration of the international situation as being a risk to world peace and

47 Jawaharlal Nehru, *India's Foreign Policy* (Delhi, 1961), pp.234-6.
49 India's representative Hussain's Statement, See *Foreign Affairs Record*, August 1968, p.182.
cooperation. The resolution called upon all UN members to desist from actions likely to aggravate tension and to seek cooperation. The resolution was unanimously adopted. In his intervention in the debate in the First Committee on Disarmament on 27 October 1960, Krishna Menon spoke of the need to give directives to guide disarmament negotiations. Those directives, he observed, should emphasize the need to achieve speedy disarmament and provide for the prohibition of the manufacture and use of the weapons of mass destruction pending an agreement on general and complete disarmament. The directives should also be given on the question of inspection, he added, in order to facilitate agreement on the problem. The idea of giving directives, as put forward by Krishna Menon, received the attention of both Power blocs and was incorporated in the various resolutions that were submitted before the Committee.

India was totally against the use of chemical and biological weapons in war. India wanted strict observance of the principles and objectives of the Geneva Protocol by all States. India was in favour of persuading all States to accede to the Protocol. The Indian representative, speaking in the First Committee, laid stress on the importance of the Geneva Protocol and said:

"It should be safeguarded, and nothing should be done which might either adversely affect the Protocol or cause doubts on its continuing validity".

India was a party to the General Assembly Resolution 2162 (XXI), which condemned all actions contrary to the objectives of Protocol. In keeping with its policy of total opposition to all weapons of mass destruction, India, as a signatory of the Geneva Protocol, expressed its belief in the continuing validity of that declaratory prohibition. Although it supported the move for a review of the problem of bacteriological and chemical weapons in the light of the latest development, it advised caution. India held the view that such a review should not be to the "detriment to the validity and importance of the protocol". India wanted the whole subject of "this category of weapons" to be carried a step further but not at the cost of the Protocol. India was anxious that there should be no slackening of the efforts to secure wider acceptance of

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the Protocol. Besides attacking an element of sanctity to the Protocol, India widened its scope by agreeing with the United Nations Secretary General that the prohibition contained in the Geneva Protocol "applies to the use in war of all chemical, bacteriological and biological agents (Including tear gas and other harassing agents) which now exist or which may be developed in future.\(^{53}\) It was a matter of deep satisfaction for India when the United Nations General Assembly passed Resolution 2603A (XXIV)\(^{54}\) reaffirming the comprehensive nature of the Geneva Protocol. India made it clear that:

It is neither possible nor desirable that to meet the military requirements of any State, whether it is or is not a party to the Protocol, an exception should be made to the comprehensive prohibition of all chemical agents envisaged under the Geneva Protocol and the recognized rules of international law.\(^{55}\)

This clearly implied that India considered adoption of any new agreement as a mere repetition of the prohibition contained in the Geneva Protocol. In India's view, such a move might undermine the ban contained in that Protocol and duplicate what has now come to be considered and respected as customary international law.

India attached great importance and sanctity to the Geneva Protocol which is the genesis and essence of the 1993 Chemical Weapons Convention. In essence, India's negotiations towards the Chemical Weapons Convention advocated that the entire set of negotiations leading to the Chemical Weapons should imbibe the essence of the Geneva Protocol in letter and spirit. At the same time, it was aware that the problem of chemical and bacteriological (biological) weapons could not be solved merely by emphasizing the importance of the Geneva Protocol. The problem would remain as long as the development of such weapons continued. This implied a continuing threat to the future of international security. The Indian representative called for an agreement, in this respect, on "halting the development, production, and stockpiling of all chemical and

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\(^{53}\) See Report of the Secretary-General on Chemical and Bacteriological (Biological) Weapons and the Effects of their Possible Use, United Nations General Assembly, document no.A/7575, 1969, p.XXI.

\(^{54}\) See, The United Nations General Assembly Resolution 2603, document no.A (XXIV), 1969 which reads: "The General Assembly declares contrary to the generally recognized rules of international law, as embodied in the Protocol -- the use in international armed conflicts of: (a) any chemical agents of warfare -- chemical substances, whether gaseous, liquid or solid, which might be employed because of their direct toxic effects on man, animals or plants; (b) any biological agent of warfare -- living organism, whatever their nature, or ineffective material derived from them -- which are intended to cause disease or death in man, animals or plants and which depend on their effects on their ability to multiply in the person, animal or plant attached".

bacteriological (biological) agents -- and their effective elimination from the arsenal of weapons". 56 In fact, by supporting the United Nations General Assembly Resolution 26038 (XXIV), India made it clear that the chances for peace would brighten significantly throughout the world if chemical and bacteriological (biological) agents intended for the purpose of war were ended and eventually eliminated from all arsenals. It declared that there was need for an elaborate convention or conventions supplementary to the Geneva Protocol to deal with the problem of chemical and biological weapons.

The question of according priority to chemical or bacteriological weapons was a difficult and complicated one. Experience showed that chemical weapons affected small areas and were capable of being used with precision but that bacteriological weapons were more devastating and had long-term ecological effects. The problem of total prohibition and elimination of this category (biological) of weapons was of a more urgent nature and required priority treatment. Moreover, during chemical talks, there was no unanimity over the definition of chemical weapons. If, therefore, an attempt was made to tackle both the bacteriological and chemical weapons jointly, there would be no progress in the matter. It was better to deal with bacteriological weapons first. 57 The three resolutions, that were submitted in the United Nations General Assembly, reflected the Western, the Socialist and the Nonaligned points of view respectively. 58 The draft resolution submitted by the USA, the UK and Italy (A/C.1/L 250), embodied the main features of the Western proposals on disarmament. It laid down the guiding principles for future negotiations, such as:

i. Nuclear and conventional measures of disarmament must be so balanced that no country or group of countries would obtain a significant military advantage;

ii. Compliance with all disarmament obligations must be effectively verified throughout by an international disarmament organization within the framework of the United Nations provisions and international control and verification should form an integral part of any agreement on disarmament;

iii. General and complete disarmament (GCD) must start with those measures which were capable of early implementation under effective international control; and

57 See, Aswani Kumar Chopra, n.21, pp.60-61.
58 For a detailed discussion, see, J.P. Jain, n.15, pp.134-37.
iv. That negotiations be resumed as soon as possible on the basis of the resolution.

The resolution, thus, underlined the Western countries' emphasis on partial measures on disarmament, the prevention of surprise attack, and idea of progression in the reduction and elimination of the weapons of mass destruction over the concept of a complete treaty on general and complete disarmament, from which everything else, including control, should follow. Expressed differently, the Western view, as indicated in their resolution, was that a series of partial and progressive measures with effective and appropriate international control, at all stages, should lead up automatically to total and complete disarmament.59

The Soviet draft resolution (P/C. 1/L. 249), on the other hand, expressed the view that an international agreement on the context of general and complete disarmament should first be reached, to be implemented in stages -- each stage to be, of course accompanied by effective international control. It called upon governments to make every effort to achieve a constructive solution of the problem of general and complete disarmament and sought the adoption of principles on which a treaty on general and complete disarmament should be drawn up. It paid down the aims of general and complete disarmament, recognized that such disarmament should be carried out in agreed sequence by stages, within a specified period, provided for balanced disarmament so that no one State or group of states could obtain military advantages, at any stage, and sought an organization for control over and inspection of disarmament within the framework of the United Nations. The Soviet resolution, in addition, sought the recognition of the necessity of a change in the structure of the United Nations General Assembly and the Security Council, to permit of equal representation in those organs of all three groups of state, viz., the socialist countries, the Western bloc and the neutralist countries, so as to preclude the possibility of using international armed forces in the interest of a particular state or group of states. Since the mutual suspicions among the two sides were deep rooted, they suspected each other and saw hidden meanings in the opposite party's proposals. The western power complained that Moscow was perfunctory and insincere about control and inspection. The Soviet Union, on the other hand, held the view that the Western powers were putting control before disarmament, 

59 Ibid., p.134.
that by their emphasis on partial measures, a progressive step-by-step approach to disarmament. 60

The Indian approach towards the general and complete disarmament (which chemical disarmament as a part) was that the United Nations General Assembly resolution of November 1959 marked as a noble and momentous resolution. There could be no going back on that goal and what was necessary was to spell out the principles and lay down the basis for future negotiations for agreement on general and complete disarmament. Such disarmament, India held, meant nothing less than a warless world in which all armies and arms were to be abolished and in which war itself was made an impossibility. A necessary corollary to this would be the establishment of an international police force in a warless world in which nations would have only internal police forces and militia for maintaining internal law and order. In a warless world, prevention or vacation of aggression by one State against another would become the responsibility of the international police force which should not subserve the interests of any one State or a group of States and should be under the control and operation of the United Nations. Before any negotiations could take place and any machinery for such negotiations might be decided upon, India believed that there should be a firm and clear set of directives or principles to form the basis of agreement on general and complete disarmament. It is for the United Nations General Assembly itself and not for any subsidiary body, like the Disarmament Commission, to lay down the principles or directives. 61 Accordingly, India prepared a draft resolution (A/C. 1/L.259), which was co-sponsored by eleven other States. It laid down a complete set of directives which should form the basis of an agreement on general and complete disarmament. It provided for a treaty on general and complete disarmament embodying the provisions set out in directives, to include the time limits and schedules for the implementation of each successive step and phase of such disarmament -- the completion of each stage to be followed by the implementation of next stage. It urged the resumption of negotiations for the purpose of the earliest conclusion of a treaty on general and complete disarmament under effective international control. It did not preclude the possibility of

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60 Ibid., p.135.
61 Ibid., pp.135-36.
putting into effect either agreed or unilateral partial measures which would create more favourable conditions for general and complete disarmament.

The directives themselves made it clear that no phase or step of disarmament should enable any state or a group of states to acquire military superiority over others. It sought the establishment of effective machinery of inspection and control in respect of each phase and step of disarmament. It also urged all countries to refrain from launching a preparing surprise attacks and to take no actions likely to aggravate international tensions. The Indian resolution, thus, tried to bridge the gulf between the conflicting Eastern and Western approaches to the question of disarmament. The seven directives, which were considered necessary to bring about general and complete disarmament in the Indian resolution, were as follows:

i. The elimination of armed forces and armaments and of armament production;

ii. The total prohibition of the manufacture, maintenance and use of nuclear and thermonuclear weapons and of bacteriological and chemical weapons of war;

iii. The elimination of all existing establishments and training institutions for military purposes;

iv. The elimination of all equipment and facilities for the delivery, the placement and the operation of all weapons of mass destruction within national territories and of all foreign military bases and launching sites of all categories;

v. The maintenance by each member State of necessary security units and training establishment, arms and their production as are agreed to be necessary exclusively for the purposes of internal security and placing at the disposal of the United Nations for the maintenance of international peace and security, in accordance with the charter of the United Nations;

vi. Such agreed changes in the United Nations, for the implementation of this resolution and for the maintenance of peace in disarmed world, as would exclude the possibility of the international police force being used for any purpose inconsistent with the Charter, including such use in the interests of one state or group of states against another state or group of states; and

vii. The exclusive use of outer space and all developmental efforts in regard to it for peaceful purposes.

The twelve-power Indian resolution contained detailed suggestions regarding disarmament. It avoided taking sides with either power bloc and it did not pronounce as to whether a treaty in general and complete disarmament should first of all be worked out, as was desired by the USSR, or that general and complete disarmament "must start

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62 Ibid., pp.136-37.
with measures which were capable of early implementation", i.e., with arms control measures, as the Western powers insisted. The 12-Power resolution simply stated that the United Nations should undergo "such agreed changes" as would be necessary for the maintenance of peace in a disarmament world. It might be recalled that the Western powers had also expressed the view that the United Nations would have to be modified in a disarmed world. Thus, the Indian resolution, sought to find a via media - a middle course between the two sides. But the USSR, the USA and the UK while appreciating the efforts of Krishna Menon and the other sponsors of the twelve-powers draft to reconcile their differences, criticized that the resolution as being vague. That vagueness, however, was the direct result of the need to accommodate their own opposing points of view.

India was against giving separate and preferential treatment to weapons of mass destruction especially biological one. India pointed out that bacteriological and chemical weapons had been classified as weapons of mass destruction. The United Nations Secretary-General’s report (A/7575/Rev.1), too, had made no distinction between bacteriological and chemical weapons. Since the two categories of weapons were both weapons of mass destruction, it made no sense to ask for separate treatment on the ground that chemical weapons were meant for tactical use and that bacteriological weapons were meant for use to achieve strategic purposes. The Indian representative, accordingly insisted that there was no difference between the two categories of weapons. India supported the contention by quoting the report of the Secretary-General, which stated:

"All biological processes depend upon chemical or physico-chemical reactions and what may be regarded today as a biological agent could tomorrow be treated as a chemical one". 63

India attached great importance to the 1925 Geneva Protocol, which made no distinction between bacteriological and chemical weapons. If bacteriological weapons were given separate treatment, it would, besides weakening the Protocol, create doubt about the comprehensive character of the protocol. Moreover, there was no strong case for giving priority to bacteriological weapons in the matter of disarmament. Bacteriological weapons had hardly been used in any war. On the other hand, the use of chemical

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weapons in some wars had resulted in disastrous consequences. It was not right to postpone consideration of the problem of chemical weapons on the pretext of giving priority to bacteriological weapons. Hence India felt that the problem of bacteriological and chemical weapons should be considered together or simultaneously. All these distinctions are evident from the draft treaties on general and complete disarmament submitted separately by the United States and the Soviet Union. The relevant resolution of the United Nations General Assembly and the United Nations Secretary-General's report dealt with both weapons together. Moreover, weapons of both categories could be delivered practically by the same vehicles. The Indian representative warned against giving a separate treatment to bacteriological weapons, and added:

"It would intensify the chemical weapons arms race and would seem to legitimize it". 64

Such a development, the Indian representative emphasized, would be most unfortunate because, as he put it, the threat posed by chemical weapons derived from the "existence of new and far more toxic chemical components than were known fifty years ago". 65

The fearful consequences of giving separate treatment to bacteriological and chemical weapons were well assessed by India. The Indian representative stated:

Separate treatment of biological and chemical weapons would lead to weakening of the Geneva Protocol because it would appear that Protocol was deficient and only partially valid. It would be difficult to justify to world opinion why biological weapons, which have never been used against mankind, should be dealt first and chemical weapons, which have been used several times with disastrous effects, dealt with later at some future unspecified date. 66

India did not agree with the view that the issue whether the two types of weapons should be considered together or separately was an unnecessary preoccupation with a minor procedural matter. The Indian representative stated on this:

"It is not a matter of mere procedure but one of substance, and the longer we refuse to recognize this basic issue, the greater will be the delay in reaching agreement". 67

64 India's representative Hussain's statement, to the Eighteen Nation Disarmament Committee (ENDC), document no. ENDC/PV.429, 19 August 1969, p.12, para.22.
65 India's Ambassador Hussain's statement to the United Nations General Assembly (UNGA), document no.A/7575, 1969, para.3.
66 India's representative Hussain's statement to the Eighteen Nation Disarmament Committee (ENDC), document no. ENDC/PV.429, 16 August 1969, p.12.
67 India's representative Hussain's statement to the Committee of Conference on Disarmament (CCD), document no.CCD/PV.489, 20 August 1970, p.6.
This meant that if an attempt was made to delink these two categories of weapons by calling it a procedural matter, it would weaken the Geneva Protocol of 1925, which alone, according to India, could serve as the basis for an agreement on bacteriological and chemical weapons. In disarmament negotiations, specially chemical talks, India's reservation was mainly on the issue on a substantial delinking of the two categories of weapon because delinking meant a fundamental departure from the accepted policy of giving joint treatment to the categories of weapons. Hence India considered it was an important matter, a matter not to be taken lightly. Once the principle of delinking was accepted, it would, instead of solving the problem, further complicate it. If an agreement was reached in respect of one category and if the other category continued to be a subject of discussion, it would mean the continuance of the arms race for that category. Hence India was not favourable to the idea of separating bacteriological and chemical weapons for the purpose of concluding an agreement about their elimination.

The US stand on chemical weapons ban demanded reliable and negotiable verification arrangements through monitoring and inspection techniques as were foolproof in their judgement. The US felt that "on-site technical inspection" was necessary. They did not agree that self-policing measures would be sufficient in themselves to form a verification system. They even rejected the possibilities of international controls and procedures, i.e., verification by external means such as observation satellites and remote atmospheric and effluent sensors. They argued that neither of the two methods could guarantee the absence of chemical weapons from any country. They held that research by their scientists in the field of verification at the various technical stages in the production cycle of chemical system had revealed that it was not possible by means of "off-site observation", whether from the air or from the ground, "to determine whether a particular chemical-processing facility or complex was producing or was capable of producing lethal nerve agents". The Soviets considered it impossible to establish any international verification in the form of control posts and on-site inspection. They argued that the problem was directly linked with peaceful production of chemical

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68 Committee of the Conference on Disarmament (CCD), document no.CCD/PV.458, 13 March 1970, para.64.
substances, so that such rigid inspection as the Americans had proposed was not possible.

India was not in favour of the attitude of the United States' approach to verification, inspection and monitoring techniques under the Chemical Weapons Convention. The Indian representative stated that if any progress at all was to be made, no matter how slow the United States and the United Kingdom should "instead of stating what is not acceptable", "state specifically what is acceptable to them". The USA and the USSR could tell the extent, nature, and frequency of on-site inspections which they considered necessary. The possibility of achieving agreement on inspection by challenge or some other such method could be explored. India suggested that verification should be based on a combination of appropriate national and international measures. Such a combination of measures could, in its view, provide an acceptable system capable of ensuring effective implementation of any prohibition of chemical weapons. The position, however, was that nobody was sure how long it would take to formulate new prohibitions on the possession of chemical weapons. It was clear that the process would be extensive and difficult.

India realized that in disarmament negotiations a stage had been reached where it was possible to work out an agreement initially on a Convention on the elimination of biological and toxic weapons only. But, the difficulties in the way of reaching an agreement on further the chemical disarmament negotiations, India presented five propositions which were in line with its earlier policy of giving joint treatment to bacteriological and chemical weapons. India suggested the following:

i. First, the 1925 Geneva Protocol should be safeguarded, and nothing should be done which might either adversely affect the Protocol of cause doubt on its continuing validity.

ii. Second, the inseparable link between bacteriological (biological) and chemical weapons on which the protocol of 1925 rests, should be fully reflected and respected in the new Convention on biological and toxin weapons.

iii. Thirdly, negotiations should be continued actively with a view to reaching agreement on the elimination of chemical weapons also.

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71 India's Ambassador Hussain's statement to Committee of the Conference on Disarmament, document no.CCD/PV.352, 2 July 1969, p.1.

72 Ibid.

73 See Committee of the Conference on Disarmament (CCD), reports, document no.CCD/PV 466, 21 April 1970, para.46.
Fourthly, the field of biology and chemistry should remain peaceful and international cooperation should develop therein.

Lastly, there should be clear recognition and implementation of the twin principles that a substantial portion of such savings derived from measures in the field of disarmament should be devoted to promoting economic and social development, particularly in the developing countries.

These suggestions did not present any fundamental change in India’s disarmament policy towards Bacteriological (biological) and Chemical Weapons Convention - 1972, 1993 respectively. There was a point in India’s support for a separate Convention on bacteriological weapons which was being concluded in anticipation of a prohibition on chemical weapons also. A commitment by the parties to the Convention on bacteriological weapons to work actively for concluding agreement on the elimination of chemical weapons would make the Convention comprehensive by preserving the link between these two categories of weapons. That was the main reason why India supported the 1972 Biological and Toxins Weapon Convention (BTWC). After the signing of the Biological and Toxins Weapons Convention, India insistently called fora similar Convention with regard to chemical weapons while keeping the above-mentioned reservations till the final shape of the 1993 Chemical Weapons Convention. India wanted the Committee of the Conference on Disarmament (CCD) to make efforts the early conclusion of an agreement on elimination of all chemical weapons as a matter of priority. India was always under an obligation to continue negotiations for effective prohibition of chemical weapons.

In the year 1976 the United States and the Soviet Union announced their intention of starting bilateral negotiations for reaching an agreement on effective measures for the prohibition of the development, production and stockpiling of all chemical weapons and for their destruction. At its 1978 Special Session on disarmament, the United Nations General Assembly also emphasized the early conclusion of a Convention banning chemical weapons for which negotiations had been going on for several years which have elaborately been dealt with in previous chapter. As a result of United Nations General Assembly’s anxiety over the issue of chemical weapons a number of Committee on Disarmament members urged the US and the USSR to inform the Committee about

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24 Addressing the Committee of the Conference on Disarmament (CCD), India’s Ambassador Banerjee stated: “The question of elimination of chemical weapons is to be a high priority”. See, Committee of the Conference on Disarmament (CCD), document no.CCD/PV 552, 23rd March 1972, p.8.
the points on which they had reached an agreement. In response to these requests, the two countries reported to the Conference on Disarmament in July 1979, about the progress in their bilateral talks on chemical disarmament. These talks gave almost final shape towards chemical weapons ban. The bilateral talks broadly covered the ban of chemical weapons; several issues relating to scope of prohibition; industrial, medical, agricultural or other peaceful purposes of chemistry; chemical warfare; chemical munition; stocks and its destruction within a reasonable timeframe; adequate verification bases on combination of national and international means and a set of general obligations.

A careful study of the USA-USSR negotiations on chemical disarmament shows that the differences between the two sides have been considerably narrowed down. Moreover, the negotiations though not completely successful have helped in acquiring the fuller understanding of the political, military, legal and technical problems associated with the chemical weapons. Finally, the bilateral talks have introduced important new elements into the debate on the question of concluding an agreement on chemical weapons. The scope of verification problems which had been preventing agreements have been side stopped. Discussions concerning a ban on chemical warfare in the Committee of the Conference on Disarmament (CCD) mostly remained centred on the question of control and verification method. The developing country members including India called for a combination of national and international means of verification. The debate on this subject involved many technical as well as political issues. These aspects have been given due emphasis in the 1993 Chemical Weapons Convention. But, the Chemical Weapons Convention is being a security agreement and a form of collective protection against a particular type of threat, the emphasis is mainly now on practical issues relating to the scope of prohibition. At the same time, the fulfillment of obligations under the Chemical Weapons Convention should be subject to important requirement

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of adequate verification bases on combination of national and international means, as India called for.\(^{77}\)

The first important step towards agreement, although not widely recognized as such at the time, came in April 1973 with the outline draft Convention put forward jointly by the neutral and non-aligned countries represented at the conference save India and Pakistan.\(^{78}\) The draft proposed a declarations-based international control system for a ban on chemical weapons comprehensively defined, thereby opening up for what proved to be constructive and sustained international discussion the delicate issue of verification, on which the USA and the USSR had entrenched themselves behind apparently irreconcilable positions. When the third UN Disarmament Conference, held in 1988, decided that the next logical step in the disarmament process would be measures to halt production of chemical weapons. India responded by claiming that India had no chemical weapons. Foreign Minister K. Natwar Singh repeated this claim in 1989 in the Paris Conference of the States Parties, as did Minister of State Eduardo Faleiro repeated at the January 1993 Paris Conference CWC signing ceremony.\(^{79}\)

India played an active role in the three main multilateral disarmament forums, viz., the Conference on Disarmament (CD) in Geneva, the United Nations Disarmament Commission (UNDC) and the First Committee of the United Nations General Assembly. In the negotiations on a global Convention on Chemical Weapons, India worked for a comprehensive Convention which would rule out discriminatory and short term measures.\(^{80}\) India was also represented in the meeting with the chemical industry held in June 1990 in Geneva in the context of the Chemical Weapons negotiations. At the 45th session of the United Nations General Assembly, India introduced two resolutions dealing with disarmament. The first, entitled "Scientific and Technological Developments and their Impact on International Security" was in keeping with India's

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\(^{77}\) See Ashwani Kumar Chopra, n.21, pp.68-69.

\(^{78}\) Argentina, Brazil, Burma, Egypt, Ethiopia, Mexico, Morocco, Nigeria, Sweden and Yugoslavia, Conference of the Committee on Disarmament (CCD), document no.CCD/400, 26 April 1973. See also, J.P. Perry Robison et. al., n.76, p.713.


initiative in 1988 for ending the qualitative arms race. As a first step in that direction, India suggested monitoring of Scientific and Technological developments by a panel of eminent experts under the United Nations auspices. The Indian resolution requested the Secretary General to submit a framework for technical assessment at the 47th Session of the United Nations General Assembly, with a view to ensuring that scientific and technical developments are used solely for peaceful purposes and for the common good of mankind. The Resolution gained widespread support with 133 countries voting in its favour. The Chemical Weapons Convention was seen as a case study for arms control and disarmament approaches in the future. The CWC was the first multilateral treaty designed to destroy an entire class of weapons of mass destruction with the most comprehensive verification system yet designed for a multilateral disarmament treaty. During the year 1998, a consensus document was submitted to the United Nations General Assembly the report of the UN Study on Verification undertaken in 1989 through a joint initiative by India as part of the six nation appeal. The recommendations of this study focussed, inter alia, on strengthening the United Nations role in the field of verification of disarmament agreements. The verification component is significant because during chemical disarmament negotiations, India called for a combination of national and international means of verification. During the Chemical Weapons Convention negotiations, India initially sought to balance the Chemical Weapons Convention’s transparency and confidentiality provisions but eventually accepted its high intrusive verification provisions because they constituted a universal nonproliferation and disarmament regime. India believes that by agreeing to the unique disarmament treaty -- the CWC, the international community confirms its serious commitment to laying down the foundations of a new global security framework that is based on goodwill, understanding and cooperation. This is consistent with

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81 Ibid.
83 Annual Report 1990-91, Ministry of External Affairs, no.80, p.60.
India's position in favour of the elimination of all weapons of mass destruction on the basis of multilaterally negotiated, non-discriminatory agreements which provide for equal rights and obligations of all parties involved. These broad principles have also guided India during the ongoing negotiations on disarmament at various levels (for instance, Biological and Toxins Weapons Convention Protocol) although the perception among its negotiators is that the intrinsic nature of and therefore the verification problems associated with the Chemical Weapons Convention.

Article VIII of the CWC deals elaborately with in Part-B Section-composition, procedures and decision-making of the Conference of the States Parties. Article VIII, Para.18 says:

The Conference shall take decisions of procedure by a simple majority of the members present and voting. Decisions on matters of substance should be taken as far as possible by consensus. If consensus is not attainable when an issue comes up for decision, the Chairman shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference before the end of this period. If consensus is not possible at the end of 24 hours, the Conference shall take the decision by a two-thirds majority of members present and voting unless specified otherwise in this Convention. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Conference by the majority required for decisions on matters of substance.

**India's Disarmament Obligations and the CWC**

Consider the diplomatic approaches on disarmament initiated by India. India has sought to secure its interests in the multilateral arena in negotiations on Weapons of Mass Destruction (WMD) by raising the debate to a moral high point. Put simply, from a national standpoint, India has conducted its foreign policy on WMD with a positive sense of creating agreements that would perpetuate its advantages and minimize the concessions that it was required to make. As an original State Party to the CWC, India has been discharging the various obligations assumed by it. It has taken effective measures to meet all the targets and timelines envisaged in the Convention. India is one of the original one hundred and thirty signatories to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons

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88 Ibid.
and on Their Destruction (Chemical Weapons Convention). The Convention was signed by India on 14 January 1993 in Paris. The instrument of ratification was deposited on 3rd September 1996 by India. The Chemical Weapons Convention (CWC) which is a universal, multilateral and non-discriminatory disarmament Treaty has entered into force on 29th April 1997. The Convention prohibits development, production, acquisition, transfer, use and stockpiling of all chemical weapons by the Member States. Today there are 145 Parties to the CWC. A further 29 states have signed it and they are, in accordance with Article 18 of the 1969 Vienna Convention on the Law of Treaties, under the interim obligation to refrain any acts which would defeat the object and purpose of the treaty. To fulfil its obligations under the Convention, each State Party has to designate or establish a National Authority to serve as the national focal point for effective liaison with the Organization for Prohibition of Chemical Weapons (OPCW) and other State Parties. The National Authority shall be responsible for collection of data, fulfilling declaration obligations, negotiating facility agreements, coordinating inspections by the OPCW, ensuring protection of confidential information, checking declarations for accuracy, consistency and completeness, etc. The Government of India introduced the Chemical Weapons Bill, 2000 in Parliament as per the obligations envisaged in the original CWC (1993). The Parliament of India passed the Chemical Weapons Convention Bill, 2000. The Act of Parliament received the assent of the President of India on the 26th August 2000. The Act is known as "The Chemical Weapons Convention Act, 2000". The Chemical Weapons Convention Act, 2000 by India has incorporated most of the provisions of the CWC. It contains VII Chapters, and its related clauses and sub-clauses. Chapter 1 mainly deals with short title, extent, application and commencement; definitions; application of the Convention, power of Central Government to deny the request for inspection; power of Central Government to declare cessation of the Act. In this first chapter, the Act states that it

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90 Ibid., p.29.

91 Ibid.


extends to the whole of India and it shall apply to citizens of India outside India; and associates, branches or subsidiaries, outside India of companies or bodies corporate, registered or incorporated in India. Chapter II of the Act deals with the establishment of the National Authority and its powers and functions. The National Authority interacts with the Organization and other States Parties for the purpose of fulfilling the obligations of the Government of India under the Convention; monitor compliance with the provisions of the Convention; regulate and monitor the development, production, processing, consumption, transfer or use of toxic chemicals or precursors as specified in the Convention and manage routine inspection or Challenge Inspection or managing investigation, in case a complaint of use of chemical weapons or riot control agents as a method of warfare is received from the Organization.

Chapter III of the Act deals with the "prohibition and regulation of chemical weapons and toxic chemicals" whereas Chapter IV is concerned with "registration of persons as producers, users, etc." In Chapter III, it can be seen that knowledge about old or abandoned chemical weapons to be informed to the National Authority. Chapter V of the Act deals with the "inspection, search, seizure and forfeiture". Chapter VI is associated with "offences and penalties" and Chapter VII of which deals with "miscellaneous" aspects such as protection of action taken in good faith, power to delegate, officers to be public servants, removal of difficulties and power to make rules.

Earlier, by ratifying the Chemical Weapons Convention (CWC) in 1993, India has demonstrated its commitment to international disarmament treaties, which are non-discriminatory in character. The implementation of all obligations assumed by India as an original State Party to the Convention and related activities has proceeded satisfactorily. As required by the CWC, India completed procedures for national implementation measures with the notification of the Chemical Weapons Convention Act on 28th August 2000, thereby providing statutory powers for the National Authority in implementing the Convention. As a member of the Executive Council of the OPCW, India has been actively involved in its deliberations and decision-making processes to

94 For the detailed list of powers and functions of the National Authority, see the Chemical Weapons Act, 2000, ibid., Chapter II.


uphold the CWC and ensure the implementation of all provisions in a non-
discriminatory and balanced manner.\footnote{Annual Report, 2002-2003, Ministry of External Affairs, Government of India, New Delhi, p.97. India
page no.675; See also, Lt. General R.K. Jasbir Singh (ed.), Indian Defence Yearbook, 1998-1999 (Dehra
Dun: Natraj Publishers, 1998), pp.222-29. In it, we can see policing arrangements, non-signatories
countries, treaty obligations, U.S. reservations, India and the CWC, and comments. In box item, it is “On
Chemical Warfare and Chemical Agents”, p.225.}

\textit{Significance of CWC}

By ratifying the Chemical Weapons Convention (CWC) in 1993, India has demonstrated
its commitment to international disarmament treaties, which are non-discriminatory in
character. The implementation all obligations assumed by India as an original state party
to the Convention and related activities has proceeded satisfactorily. Why is the
CWC known as one of the best \textit{model} Conventions the world has ever negotiated? The
CWC was a first in itself for many reasons. More than 24 years of bilateral and
multilateral effort, the Conference on Disarmament (CD) sent the Convention to the UN
General Assembly for its acceptance. The original signatories of the CWC in Paris
were of more than 130 countries. The CWC proposed a truly non-discriminatory treaty
with universal application. It also sought to develop a verification activities conducted
multilaterally by the International Atomic Energy Agency (IAEA), or developed
bilaterally under the Intermediate Nuclear Forces (INF) and Strategic Arms Reduction
Treaty (START) treaties. The artificial deadline of 1992, however, meant that apart
from resolving the superstructure of the Convention, over 125 items that required
technical and political attention were pushed into the Preparatory Commission (Prep
Com - 1993-97) of the Organization for the Prohibition of Chemical Weapons (OPCW),

\textit{To date, only the United States and the former Soviet Union have needed to be involved in strategic arms control because their arsenals dwarf those of the other states (China, France, and the United Kingdom) that deploy strategic weapons. If and when Russian-US strategic arms control moves toward minimum deterrent forces of perhaps 1,000 warheads each, the smaller nuclear arsenal states will probably have to take part in talks. Global negotiations, such as those that produced the CWC and the UN Register of Conventional Arms, usually involve the establishment of a working or steering group of a smaller number of states. Such a group brings together a wide range of expertise on technical issues (such as verification problems and opportunities), as well as reflecting the interests of different governments. Its task is to agree on a draft that can be submitted later to a plenary group for approval. Reflecting the problems of a negotiating forum of 180 participants, the UN has established in Geneva a Committee on Disarmament (CD), which has tended to grow over the years but which still comprises less than a quarter of the UN membership. This forum tackles global matters and works for consensus. With agreement within the CD achieved, it is reasonably expected that most of the rest of the UN’s membership can then be persuaded to fall in line. See M.J. Sheehan, \textit{Arms Control: Theory and Practice} (Oxford: Oxford University Press, 1988), Chapter 1.}
located in The Hague. The organizational structure also give uniqueness to the CWC. The OPCW is the body which oversees the implementation of the CWC. Another unique aspect of the CWC relates to the role of industry in arms control. Arms control of the 1960s, 1970s, and 1980s addressed standing nuclear or conventional forces. Of course, both the Nuclear Non-Proliferation Treaty (NPT) of 1968 and the Biological Weapons Convention (BWC) of 1975 addressed industrial capabilities beyond weapons programs, but, because the former focussed quite narrowly on a few critical facilities and because the latter lacks any inspection provisions neither had significant implications for the relevant industry. With the INF and START agreements, however, commercial production facilities began to fall within the purview of arms control. The CWC is the most far-reaching agreement to date in terms of its implications for a virtually global industry. Other unique factors which, shape the CWC as a model convention pertain to verification, treaty compliance mechanisms, use and sharing of intelligence, and the flexibility of the treaty itself are key components.

During the 1970s and 1980s negotiations in Geneva pertaining to the CWC were halted owing to American and Russian intransigence over destruction of all chemical weapons stockpiles. The United States, as part of its larger policy of deterrence, had insisted on retention of two percent of its stockpile. For countries from the developing world that participated in the CD negotiations it was difficult to accept the creation of yet

100 In the 1920s, industry opposition helped to prevent a more comprehensive measure than the Geneva Protocol and to scuttle the US Senate ratification. But in the 1990s, the US chemical industry firmly backs the CWC, although it has established strict criteria by which its interests can be protected under the convention. Particularly important to industry thinking has been its extensive experience with existing regulatory activities of US and local governments; the chemical industry has also been sensitive to a public image badly wounded by the war in Vietnam. If industry and government are able to work smoothly to monitor compliance within the commercial sector with CWC provisions, broader industry openness to future arms control measures can be envisaged. See Rodney J. McElory, "The Geneva Protocol of 1925", in Michael Kiepon and Dan Caldwell, eds., *The Politics of Arms Control Treaty Ratification* (New York: St. Martin's Press, 1991); Kyle Olson, "Disarmament and the Chemical Industry", in Brad Roberts, ed., *Chemical Disarmament and U.S. Security* (Boulder, Co.: Westview Press, 1992).

another treaty, after the Nuclear Non-Proliferation Treaty (NPT), that sought perpetual differentiation among members. This deadlocked progress on negotiations, until the United States and Soviet Union reached a bilateral agreement in Jackson Hole, Wyoming, in 1989, under which the demand for retaining two per cent stockpiles was dropped. The removal of this demand was once again perceived to be in the US national interest. With chemical weapons technology almost sixty years old by then, fears of its proliferation to over a dozen countries, and in particular to radical states, made the then U.S. President George W. Bush finally agreed to remove the objection. In the process, the United States sought a firm date of 1992 to conclude negotiations. After two decades in limbo, the CWC negotiations assumed enormous urgency between 1989 and 1992. Significantly, after the Convention entered into force in April 1997, and through the four years of PrepCom (Preparatory Commission - 1993-97), differences between India and the United States have reemerged on issues that were mentioned in the context of the verification protocol for the Biological and Toxins Weapons Convention (BTWC). India had suggested that the export of dual-use materials should be monitored through declarations, and regulated through guidelines negotiated

102 These were later re-defined as "rogue" states. These states insisted on developing such weapons as a poor man's response to nuclear weapons. These "rogue" states are also known as the "axis of evils" by the US State Department. The rogue states are Iraq, Iran, North Korea. Iraq poses an extremely serious threat to the United States and to US allies not only because of its continued possession of weapons of mass destruction (WMD), but also the increased likelihood that it will use such weapons in any future military conflict. See, Report of the Executive Chairman of the United Nations Special Commission on Iraq (UNSCOM), 6 October 1998, S/1998/920. See also, UN Resolution 687 (1991). Despite the many highly intrusive inspections conducted by the International Atomic Energy Agency (IAEA) and UNSCOM from 1991 through 1998, the full breadth of Iraq's WMD capabilities remains unknown. Extensive concealment and deception efforts by the Iraqi government have been highly effective. See also, U.S. Department of Defense, "WMD Security BDA". Briefing Charts, 19 December 1998. See http://www.fas.org/news/iraq/1998.

103 Establishing a verification mechanism is inherently more difficult for Biological Weapons (BWs) than for Chemical Weapons (CWs), for the following reasons: First, whereas the production of CW agents requires a certain distinctive precursor materials and reactions, BW agents involve mainly dual use materials and equipment. Second, whereas to be militarily significant hundreds of tons of CW agents must be stockpiled, a few grams of BW agents such as anthrax bacteria can lead to comparable damage, and such small quantities would be easy to hide. Third, due to the potency of BW agents and the exponential rate of microbial growth, a militarily significant quantity of a BW agent can be produced in a matter of days. What is more significant is that it can also be quickly destroyed.

Proponents of a verification mechanism for BWC concede that, while a verification regime cannot provide absolute confidence in a country's compliance, it would deter the proliferation of biological and toxin weapons by:

- Decreasing the number of sites of proliferation concern,
- Creating a legal framework for the conduct of challenge inspections,
- Imposing a risk of discovery and increasing the cost and difficulty of a clandestine programme,
- Reinforcing the international norm against the acquisition and use of BW agents.

multilaterally by all the States Parties.\textsuperscript{104} Traditionally, India has been against a policy premised on technology denials, and has preferred a political approach to the problem.\textsuperscript{105} Several reservations were added into the US ratification and implementation legislation under the Iran Missile Proliferation Act. Though vetoed by the US President on 24 June 1998, these efforts once again highlight the differences in positions taken by India and the USA. The US Senate has added some conditions to US ratification of the CWC in April 1997. These include, among other things, a commitment from the US administration to aggressively pursue the non-proliferation aspect of the Convention through strict reporting measures for noncompliance by other States Parties as a condition for the United States remaining a party to the Convention.\textsuperscript{106} The other precondition is to secure a commitment from the administration for the preservation of the Australia Group mechanism\textsuperscript{107} despite the entry into force of the CWC. The conditions imposed by the US Senate have a direct bearing on the Indian position. Australia Group is one of the global instruments for arms limitation.

As mandated in the CWC, India has ratified the CWC without reservations unlike the United States. There are analysts in India who believe that the US Senate conditionalities constitute an implied reservation, given the fact that international obligations are given precedence over domestic legislation. In fact, most implementation legislation is designed to bring domestic laws in line with accepted international obligations. By preserving the Australia Group, India believes that the United States is

\textsuperscript{104} Statement by India's Permanent Representative to the UN, Arundhati Ghose, Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, 26 November 1996.

\textsuperscript{105} For a detailed discussion, see Arpit Rajain, "The BTWC and the Role of India" in P.R. Chari and Arpit Rajain (eds.), Working Towards a Verification Protocol for Biological Weapons (New Delhi: Institute of Peace and Conflict Studies, July 2001), pp.48-58, and particularly pp.52-53.

\textsuperscript{106} There should be worked out to achieve an international consensus on strong diplomatic, economic, and military actions to be taken against states that refuse to accept or do not comply with the CWC and the BWC. See, Jonathan Schell, "The Folly of Arms Control", Foreign Affairs, vol.75, no.5 (September/October 2000), pp.22-46.

\textsuperscript{107} Informal association established in 1985 that restricts the transfer of chemical weapon precursors and toxic chemicals, of biological warfare agents and organisms, and of equipment used in the production thereof. Group members administer a common list of items subject to national export controls, coordinate approaches to export licensing procedures, consult and exchange information on matters relating to export requests which could potentially aid in the proliferation of chemical and biological weapons, and brief non-group members on the activities and purposes of the group. Australia Group members meet each year in Paris with Australia as the Chair. See Steve Tulliu and Thomas Schmalberger, Coming to Terms with Security: A Lexicon for Arms Control, Disarmament and Confidence Building (Geneva: United Nations Institute for Disarmament Research, 2001), p.66.
attempting acts that are expressly prohibited under the Convention. Article XI of the Convention\textsuperscript{108} envisages free trade in technologies and equipment for purposes not prohibited under the Convention. The retention of the Australia Group, outside the purview of the Convention, in itself violates this principle enshrined in Article XI. The fallout of this position has become evident in the negotiations on unresolved issues. The greatest distance between the Indian and US positions is over free access by all States Parties to equipment that is to be used for inspections and training.\textsuperscript{109} India has been insisting that such equipment be commercial available and therefore accessible to all States Parties. The United States, on the other hand, in pursuance of its non-proliferation objectives, has put forward the objective that equipment required for inspections, if accessed by all countries could in itself become an agent for

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\textsuperscript{108} Article XI of the CWC stipulates that:

1. The provisions of this Convention shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention.

2. Subject to the provisions of this Convention and without prejudice to the principles and applicable rules of international law, the States Parties shall:

   (a) Have the right, individually or collectively, to conduct research with, to develop, produce, acquire, retain, transfer, and use chemicals;

   (b) Undertake to facilitate, and have the right to participate in, the fullest possible exchange of chemicals, equipment and scientific and technical information relating to the development and application of chemistry for purposes not prohibited under this Convention;

   (c) Not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this Convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

   (d) Not use this Convention as grounds for applying any measures other than those provided for, or permitted, under this Convention nor use any other international agreement for pursuing an objective inconsistent with this Convention;

   (c) Undertake to review their existing national regulations in the field of trade in chemicals in order to render them consistent with the object and purpose of this Convention.

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proliferation. This difference continues to be unresolved and is related to basic positions adopted by both countries in their larger national strategies.

Article IX of the CWC is crucial in this respect. Para 2 of this Article reads as:

"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 State Parties to arrange by mutual consent for inspections 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".

And procedures for challenge inspection has elaborately laid down in the Article IX, from para 8 to 25. Article IX, para.8 reads as follows:

"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."

And Article IX, para.9 states as follows:

"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".

Washington and Moscow regulated the dangers of their global rivalry on weapons of mass destruction specially nuclear, through a series of unilateral actions, reciprocal measures, and formally negotiated agreements to establish stable political and military
relations. Pertaining to nuclear arms control, it took place over several decades.\textsuperscript{111} It is not surprising that India and Pakistan have been slow to develop a stable security order in South Asia. In India and Pakistan, there are broadly three schools of thought\textsuperscript{112} concerning mutual relations. In it, it is reflective the national security component of diplomacy. The first believes the worst; that the other country is devious and untrustworthy besides being unreconciled to the very existence of the other. Hence, attempting to find peaceful and lasting solutions will be impossible; the only possible course will be to remain in a wary adversarial stand-off or undo the other country. Many in this group are misguided by propaganda, with some cynically pushing this line because of its value in domestic politics. This kind of thinking produced the three rounds of war between the two countries. Such wars in pursuit of policy might have appeared affordable in the past. However, today with both countries \textit{de facto} nuclear, such wars have the potential of devastating India, and destroying Pakistan. The second group consists of "do-gooders" who believe that if only we can side-line the wicked ruling elites, and enable large scale contacts between the two peoples, our countries can make up tomorrow morning. This group contains true idealists who abhor all and loathe nuclear weapons; some who are soft in the head; and a few who exploit this line cynically for their own purposes. The third group is nascent in India and Pakistan. It consists of realists who have studied nuclear doctrine as enunciated by the big powers and believes that a fair, honourable and peaceful solution of all problems between the two countries is possible. It believes that even conventional war might lead to nuclear weapons use, and is no longer an option that can be lightly chosen by decision makers. This group feels that nuclear deterrence, in the interim, will add to stability and peace


and that the only salvation is for both countries to follow policies of cooperation and not confrontation. At this juncture of UN efficacy (or rather, the lack of it), only nuclear weapons would ensure the ability of Pakistan to live in security and with honour. Conventional wars fought by countries that do not have nuclear weapons are likelier than conventional or nuclear wars fought by countries that have nuclear weapons.\textsuperscript{113} Several confidence-building measures have been proposed for India and Pakistan: \textsuperscript{114} a regional cutoff of fissile material production, a regional nuclear test ban, safeguards on new and existing nuclear facilities; extension of the nuclear no-attack pledge to cover population centres, enhanced international security assurances, regional risk reduction centers, upgraded hotlines between military and political officials, and regular exchanges of military personnel. However, even the best ideas cannot succeed in the absence of a stable arms control culture. Bilateral agreement between India and Pakistan on Chemical Weapons concluded in New Delhi on 19 August 1992.\textsuperscript{115} It obliges the two parties not to develop, produce or acquire, use, or assist, encourage or induce anyone in the development, acquisition, stockpiling or use of chemical weapons. It also commits both States Parties to become parties to the Chemical Weapons Convention (CWC).

The need for straight dealing is never more compelling than in negotiations between strong and weak states. The strong have no need to use underhanded tactics to achieve agreements their power can produce without such tactics. They have every reason to evince respect for the weaker party. Power should speak for itself; strength that is flaunted arouses unnecessary resentment. It is often strategically wise for the strong to refrain from imposing an agreement they have the tactical capacity to impose on a weaker party. Insistence on too much, too soon, may preclude opportunities to gain more, at lesser cost, later. Diplomacy, basically denotes the processes and machinery by which negotiations are carried on. The purpose of diplomacy is to reach agreement. Diplomacy, obviously has relevance only where disagreement exits. It will have no


\textsuperscript{115} \textit{Joint Declaration by India and Pakistan on the Complete Prohibition of Chemical Weapons}, New Delhi, Government of India, 19 August 1992. See also, Steve Tulliu and Thomas Schmalberger, n.pot, p.70.
relevance if there is complete disagreement. Thus, diplomacy is used where there are areas of disagreement or misunderstanding, real or potential. In case of disarmament, it is a means to peace. It is a direct approach to peace. Here, diplomacy has a unique functional role to perform pertaining to the disarmament issues. This is true pertaining to the Chemical Weapons Convention (CWC) in the sphere of chemical disarmament, Indian diplomacy has been succeeded over the decades.

One could address a hoary and much touted belief that Chemical Weapons are a poor man's answer to an adversary's nuclear capability. The assumption is that the non-nuclear country is either technologically, industrially or economically incapable of producing nuclear weapons, or that the threat has come upon it so suddenly that there is inadequate time to produce nuclear weapons. If the non-nuclear power uses its CW capability before the other side uses its nuclear capability there has to be the presumption of almost certain nuclear retaliation. It can be argued that this fear of escalation into nuclear response was what deterred Saddam Hussein from making first use of CW either against Israeli strategic targets or on tactical targets in the combat zone during the gulf war. Minimum nuclear deterrence is operating mutually in the South Asian context. This might be unweaponized and undeployed by Western definition. However, as long as all parties are understood to be capable of retaliation within a matter of hours, the first use of CW by any country seems most unlikely since the recipient of chemical attack is almost certain to retaliate by making a second strike with WMD. If it possesses both a CW and a nuclear capability, the retaliation might use either, depending upon a number of variables. The initiate of the first strike will have to assume the worst. Therefore, it would be most unlikely that CW would be initiated. In case the recipient of the CW strike is either without or believed to be without a CW capability, it would be almost axiomatic that nuclear retaliation would ensue. Deterrence would be stronger still. When minimum nuclear deterrence is in place, therefore, it is creating or deploying a CW capability would be an exercise in futility.

Recurring regional tensions and the bogey of third party mediation/ intervention (the U.S. policy) in South Asian relations over the past decade, and Indo-Pakistani relations

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116 Krishnaswami Sundarji, n.112, p.68.
117 Ibid., pp.68-69.
have been marked by cycles of military tension. The security scenario in South Asian horizon is neither fragile nor secure. Pakistan ratified the Chemical Weapons Convention in October 1997 and did not declare any chemical agent production or development. Pakistan has imported a number of dual-use chemicals that can be used to make chemical agents. These chemicals also have commercial uses and Pakistan is working towards establishing a viable commercial chemical industry capable of producing a variety of chemicals, some of which could be used to make chemical agents. Chemical agent delivery methods available to Pakistan include missiles, artillery, and aerial bombs.\textsuperscript{118} India and Pakistan have adapted a number of limited, bilateral confidence-building measures (CBMs), e.g., pledges not to attack each other's nuclear facilities, hot-line communication links, and military exercise notifications -- that are intended to reduce the risk of inadvertent military conflict.\textsuperscript{119}

In the ultimate analysis, the proliferation of Weapons of Mass Destruction (WMD) is the major issue and it invariably shows and suggests the rate of proliferation appears to be slow. The geographic scope of proliferation is shrinking, and a landmark de-nuclearization was achieved in 1996 in part of the former Soviet Union. The positive trends provide sanguine and rosy scenario of diplomatic efforts. What is needed at this juncture innovative diplomatic efforts at institutional, conference and summit levels, and favourable political developments within potential proliferant states. We should not fail to understand broader historical trends -- especially the end of the Cold War and global economic expansion -- contributed importantly to these accomplishments. The powerful shade of globalization processes strengthen these efforts. At the same time, one could see powerful countervailing currents that could place recent non-proliferation achievements at risk and even threaten to rupture the painstakingly built non-proliferation regime. Among these, the danger of leakage of nuclear weapons, biological and chemical terrorism or weapon-usable materials from the former Soviet Union was rightly regarded as the most serious and came in for the lion's share of U.S. attention in the early 1990s. As for South Asia, the ambiguous nuclear rivalry between India and


Pakistan is a riddle. It is important to note also on the darker side, that nuclear proliferation threats in the 1990s became increasingly interwoven in the most hostile proliferant states with the spread of other "Weapons of Mass Destruction" (WMD): Chemical and Biological Weapons and missile delivery systems. Moreover, there are now increasing signs that the ability to manufacture portable WMD, especially chemical and germ weapons, is spreading among terrorist groups. Such weapons could be homegrown or smuggled past normal defenses to strike deep in domestic societies -- imposing potentially unbearable stresses on democracies. Thus not only is it too early to declare a non-proliferation victory but newly emerging aspects of proliferation suggest it may be necessary to go back to the drawing board. We have promising trends along with continuing challenges pertaining to the Weapons of Mass Destruction.

"Men do not fight because they have arms" but "they have arms because they deem it necessary to fight". The implication is that a mutually satisfactory settlement of political problems is necessary for disarmament. In this respect, diplomacy can play key role i.e., peace through accommodation. Agreements that are fair and that correspond to the interests of the parties to them reconcile them to each other and lay the basis for further cooperation between them. Agreements that are unfair, one-sided, or contrary to the long-term interests of one or more parties to them, breed resentment and sow the seeds of future dissension and conflict. Little is gained, and much may be lost, by the achievement of agreement, even a mutually advantageous agreement, through tactics that are seen by one side as either high or underhanded. Such tactics leave memories that complicate the resolution of future disagreements with those who believe they have been subjected to sharp practices. Negotiating tactics should always be guided and constrained by strategic objectives. Usually, this dictates that negotiators avoid trickery, deception, or condescension.
An Appraisal

India became the sixty-second country to ratify the CWC on 2 September 1996. It was not until 26 June 1997, that India amended its previous statement of non-possession and declared that it, indeed, had a chemical weapons stockpile. India is in the process of destroying these weapons, in accordance with its obligations to the CWC. Nevertheless, the sophistication of India's domestic chemical industry would allow it to rapidly reconstitute a significant chemical weapons capability, if it chose to do so. Attention must legitimately focus on resolving outstanding "big issues" and on clearing up the many details and loose ends that still exist in the CWC. From designing a strategy for winning adherents, through starting the process of organization building, to laying the groundwork of effective international sanctions in response to noncompliance, taking modest preparations now could increase significantly the prospects for making a global chemical weapons ban work.

\[\ldots\text{continued}\]

function properly only by abiding by nine rules. These rules are: (a) diplomacy should be free from the crusading spirit; (b) foreign policy objectives must be defined in terms of national interest and those objectives must be defended with sufficient power; (c) diplomacy should look at the political scene from the point of view of other nations also; (d) nations should be ready to make compromises on non-vital issues; (e) nations should care for the real advantage rather than for superficial advantages; (f) a nation should not adopt a position from which retreat is not possible without loss of face and from which advance is not possible without serious risks; (g) a nation should not allow a weak ally to make decisions for it; (h) armed forces should be subordinate to the political authority; and (i) the government should be the leader of public opinion and not its servant. Besides by good diplomacy, peace can be preserved also by two other devices: balance of power and the normative limitation of international law, international morality, and world public opinion, if only they could be made effective. The struggle for power leads to the balance of power through which nations try to defend themselves against each other. See, Morgenthau's nine rules of diplomacy, see n.120, pp.561-67.