COUNCIL COMMON POSITION 2007/469/CFSP

of 28 June 2007

relating to the 2008 Review Conference of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

(1) On 29 April 1997, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC) entered into force. The Convention aims at eliminating an entire category of weapons of mass destruction by prohibiting the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons by States Parties. States Parties, in turn, must take the steps necessary to enforce that prohibition in respect of persons (natural or legal) within their jurisdiction.

(2) The European Union considers the CWC to be a key component of the international non-proliferation and disarmament framework and a unique disarmament and non-proliferation instrument the integrity and strict application of which must be fully guaranteed. All EU Member States are States Parties to the CWC.

(3) From 28 April to 9 May 2003, States Parties of the Organisation for the Prohibition of Chemical Weapons (OPCW) convened in The Hague for the First Review Conference. In particular, the First CWC Review Conference assessed the destruction process of declared arsenals. It took into account relevant scientific and technological developments since the Convention was drafted. It also reviewed and re-examined the provisions of the Convention relating to verification in the chemical industry. The Conference provided strategic guidance for the next phase of the implementation of the CWC.

(4) On 17 November 2003 the Council adopted Common Position 2003/805/CFSP [1] on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery. Under that Common Position, the CWC is included as one of these multilateral agreements.

(5) On 12 December 2003, the European Council adopted the EU Strategy against Proliferation of Weapons of Mass Destruction, which reaffirms the commitment of the EU to the multilateral treaty system, and underlines, *inter alia*, the crucial role of the CWC and of the OPCW in creating a world free of chemical weapons.

(6) On 28 April 2004, the United Nations Security Council unanimously adopted Resolution 1540 (2004) describing the proliferation of weapons of mass destruction and their means of delivery as a threat to international peace and security. Implementation of the provisions of this Resolution contributes to implementation of the CWC.

(7) On 22 November 2004 the Council adopted the first Joint Action 2004/797/CFSP on support for OPCW activities in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction [2]. This Joint Action has been followed by Joint Action 2005/913/CFSP [3], adopted on 12 December 2005, and Joint Action 2007/185/CFSP [4], adopted on 19 March 2007.

(8) On 6 December 2006 the United Nations General Assembly adopted by consensus a Resolution on the Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

(9) In view of the forthcoming Second Review Conference of the CWC during the period 7 to 18 April 2008 it is appropriate to define the approach of the European Union, which will guide the EU Member States at this conference,

HAS ADOPTED THIS COMMON POSITION:

Article 1

The objective of the European Union shall be to strengthen the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC), in particular by promoting compliance with the CWC, including the timely destruction of all chemical weapons, and by enhancing its verification regime and striving for universality.

The European Union shall therefore seek a successful outcome of the Second Review Conference in 2008.

[1] OJ L 302, 20.11.2003, p. 34.

[2] OJ L 349, 25.11.2004, p. 63.

[3] OJ L 331, 17.12.2005, p. 34.

[4] OJ L 85, 27.3.2007, p. 10.

Article 2

For the purposes of the objective laid down in Article 1, the European Union shall:

(a) contribute to a full review of the operation of the CWC at the Second Review Conference, including the implementation of obligations of States Parties under the Treaty, as well as the identification of areas in which, and of means through which, further progress should be sought in future;

(b) help build a consensus for a successful outcome of the Second Review Conference, on the basis of the framework established by the First Review Conference, and shall promote, *inter alia*, the following essential issues:

(i) reaffirmation of the comprehensive nature of the prohibition of chemical weapons as laid down in the General Purpose Criterion by:

— reconfirming that the Convention's prohibitions apply to any toxic chemical, except where such a chemical is intended for purposes not prohibited by the Convention and as long as the types and quantities are consistent with such purposes, and thus take into account the developments in science and technology since the First Review Conference,

— underlining the obligation of States Parties to reflect the General Purpose Criterion in their national implementation legislation and administrative enforcement practice,

— emphasising the obligation of States Parties to declare riot control agents;

(ii) reaffirmation of the obligation of chemical weapons possessor states to destroy their chemical weapons within the deadlines of the CWC, through:

— welcoming the progress made and the efforts undertaken by possessor states to meet the deadlines while urging them to overcome delays in destruction,

— underlining the importance of systematic verification through continuous on-site inspection of chemical weapons destruction,

— assessing progress in the destruction of chemical weapons, taking into account, *inter alia*, the results of visits by representatives of the Executive Council in accordance with the decision of the 11th Session of the Conference of the States Parties,

— emphasising the responsibility of the policy-making organs to consider States Parties' compliance with agreed destruction deadlines at the appropriate time;

(iii) further strengthening of the verification regime with regard to activities not prohibited under the Convention, with a view to enhancing confidence in the non-proliferation of chemical weapons and to further promoting cooperation with industry, through:

— continued awareness-raising of the Convention's prohibitions throughout Government, industry, academia and non-governmental organisations,

— emphasising the need to increase the number of inspections in Other Chemical Production Facilities (OCPF) and to improve the effectiveness of the regime where necessary, giving priority to those sites which are of high relevance to the Convention, and to the improvement of declarations by States Parties on OCPF sites;

(iv) implementation of the provisions of the Convention on consultations, cooperation and fact-finding, in particular the challenge-inspection mechanism, which remains an indispensable and readilyavailable instrument as well as a viable and usable tool of the OPCW's verification regime, stressing the legal right of States Parties to request a challenge inspection without prior consultation and encouraging the use of the mechanism as a matter of course where appropriate;

(v) development of tailored strategies on achieving the universality of the CWC, in particular with regard to the Middle East, including regional workshops in the areas concerned;

(vi) continuous improvement of national implementation measures and recalling that full compliance with Article VII is a vital factor for the present and future efficiency of the CWC regime, including through:

— offering assistance to States Parties in need, as exemplified by the Joint Actions of the European Union; and

— strengthening national export controls which are required to prevent the acquisition of Chemical Weapons;

(vii) ensuring the OPCW's capability to provide assistance and protection;

(viii) fostering international cooperation in accordance with the provisions of the Convention, and in particular contributing to capacity building activities by the OPCW in States Parties developing their chemical industry and trade;

(ix) beginning work to ensure that, following the completion of the destruction of all chemical weapons, the OPCW is wellplaced to focus on its remaining activities, in particular its non-proliferation role;

(x) compliance with obligations under United Nations Security Council Resolutions 1540 (2004) and 1673 (2006), in particular to call for practical cooperation between OPCW and the UN 1540 Committee as well as other forums with the aim of eliminating the risk of chemical weapons being acquired or used for terrorist purposes, including possible terrorist access to materials, equipment, and knowledge that could be used in the development and production of chemical weapons;

(xi) the G8 Global Partnership programmes targeted at preventing proliferation of weapons and materials of mass destruction through support for disarmament, control and security of sensitive materials, facilities and expertise.

Article 3

Action taken by the European Union for the purposes of Article 2 shall comprise:

(a) agreement by Member States on proposals on substantive issues for submission on behalf of the European Union for consideration by States Parties to the Convention in the preparation phase and at the Second Review Conference;

(b) where appropriate, approaches by the Presidency pursuant to Article 18 of the Treaty on European Union:

(i) with a view to promoting universal accession to the CWC;

(ii) to promote effective national implementation of the CWC by States Parties;

(iii) to urge States Parties to support and participate in an effective and complete review of the CWC and thereby reiterate their commitment to this fundamental international norm against chemical weapons;

(iv) to promote the above mentioned proposals submitted by the European Union for States Parties' consideration which are aimed at further strengthening the CWC;

(c) statements by the European Union delivered by the Presidency in the run up to, and during, the Second Review Conference.

Article 4

This Common Position shall take effect on the day of its adoption.

Article 5

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 28 June 2007.

For the Council
The President
S. GABRIEL