

Celebrating 10 years of implementing a global ban on Chemical Weapons¹

April 2007

On the eve of the tenth anniversary of the Chemical Weapons Convention, this article reflects on what has been achieved so far, how this has impacted the chemical industry in Australia and the future challenges that lie ahead. The importance of cooperation between government and industry and the contribution of peak industry associations such as PACIA in ensuring Australia's compliance with the Convention is also acknowledged.

The Chemical Weapons Convention – what has been achieved so far

The Chemical Weapons Convention (CWC) is unique in that it is the only international treaty requiring the complete and verifiable elimination of an entire category of weapon of mass destruction. The Convention also promotes the peaceful use of chemistry and entitles States Parties (member countries) to assistance and protection against the use, or threat of use, of chemical weapons.

The Convention came into force on 29 April 1997 and as of 6 April 2007 it will have 182 States Parties representing approximately 98 per cent of the global population and landmass, as well as about 98 per cent of the worldwide chemical industry. In Australia's region, Burma is the only country to remain outside the CWC.

Under the Convention all States Parties are required to:

- prohibit and criminalise production and use of chemical weapons;
- destroy chemical weapon stockpiles;
- dismantle any related capabilities;
- declare defensive research and specified dual-use chemical activities; and
- allow independent verification by the Organisation for the Prohibition of the Chemical Weapons (OPCW) which is based in The Hague.

One of the main goals of the Convention is the verifiable destruction of all existing chemical weapons, stockpiles, munitions and production facilities. By the end of February 2007, almost 25% of the 71 000 metric tonnes of declared chemical agent stockpiles and 31% of the 8.6 million declared chemical munitions have been verifiably destroyed. Six States Parties have declared stockpiles of chemical weapons. However, due to technical, legal and environmental issues, none of these States Parties are likely to complete destruction of their stockpiles by the deadline set out in the CWC of April 2007. In December last year, Russia and the United States of America were granted extensions to their destruction deadlines to 2012 – the last date permitted under the provisions of the Convention.

10th Anniversary of the CWC

29 April 2007 marks the 10-year anniversary of the CWC. To commemorate this historic occasion there will be the unveiling of a permanent memorial to all victims of chemical weapons by Her Majesty Queen Beatrix of The Netherlands in The Hague

on 9 May 2007. There are also a number of other events being held in The Hague, including an OPCW Academic Forum 18-19 September and an OPCW Industry and Protection Forum 2-3 November. Further information can be obtained from the OPCW website (www.opcw.org).

CWC implementation in Australia

Australia's obligations are implemented primarily through the *Chemical Weapons (Prohibition) Act 1994* (the Act). The Australian Safeguards and Non-Proliferation Office (ASNO), within the Department of Foreign Affairs and Trade (DFAT), is responsible for ensuring Australia's compliance with treaty obligations.

Australia does not possess chemical weapons, but produces small quantities of high risk CWC-relevant toxic chemicals for research, medical, pharmaceutical or protective purposes as permitted under the Convention. Under the Act, production and/or use of CWC Scheduled chemicals above specific thresholds is prohibited unless a permit is first obtained, while annual notifications for the production of unscheduled discrete organic chemicals is also required.

One of the requirements under the Convention is for States Parties to declare international trade in CWC Scheduled chemicals and to prohibit trade in higher risk chemicals to non-States Parties. Regulations under the *Customs Act 1901* require authorisation of legitimate trade in these chemicals under a permit system which also assists in gathering trade information for declarations to the OPCW.

ASNO is responsible for issuing permits to import CWC Scheduled chemicals while Defence Trade Control and Compliance (DTCC) is responsible for issuing export permits.² DTCC in conjunction with ASNO will soon be releasing Version 3.0 of the CD ROM "International Chemical Trade Control" designed to assist importers and exporters of chemicals to meet their legal obligations under the permit system. Companies wishing to receive a copy of this CD or any other ASNO publication listed at the end of this article can express their interest by emailing Vanessa Masters (vanessa.masters@dfat.gov.au) or asno (asno@dfat.gov.au).

The CWC and Industry

Some chemicals produced or used for legitimate industrial, medical or research purposes can also be used to produce chemical weapons. To provide assurances to the international community of compliance with treaty obligations, States Parties must declare information on certain chemical activities, and to permit routine inspections of declared facilities by OPCW inspectors. More than 6000 industrial and research facilities have been declared world-wide pursuant to the Convention. Australia declared about 45 of these.

Since 1997, the OPCW has conducted more than 1100 on-site inspections at 900 industrial or defence protective purpose facilities in about 76 member countries to verify information declared. Since the entry-into-force of the Convention in 1997, Australia has received 21 OPCW inspections. All inspections proceeded smoothly and

have demonstrated the accuracy of Australia's declarations and the absence of activities prohibited under the Convention.



ASNO, OPCW and facility representatives during an OPCW inspection at an Australian chemical plant producing discrete organic chemicals.

The cooperation and support of Australian industry has been exceptional and continues to be the cornerstone of Australia's good standing on CWC implementation. The Plastics and Chemical Industries Association (PACIA) is gratefully acknowledged for its active role since the early 1990's in raising awareness about the CWC and in promoting regulatory compliance in Australia.

Ongoing issues

There are a number of issues directly relevant to industry. Australia is among a few countries that have taken the lead by developing unique classification numbers based on a World Customs Organisation (WCO) Recommendation for CWC Scheduled chemicals, to help regulate its international chemical trade and to enforce the Convention's trade prohibition on transfers of higher risk chemicals to non-States Parties. While most countries use tariff codes as a way of tracking chemicals, only 17 countries have formally adopted the WCO recommendation.

Australia's classification system for CWC Scheduled chemicals faced a number of challenges during its implementation, the main one being accidental misclassification of goods by brokers. These have been largely resolved through the development and implementation of a number of support measures, and improved awareness by users. One measure promoted by ASNO is to encourage importers to provide chemical names and Chemical Abstracts Service (CAS) registry numbers to assist their brokers or freight forwarders in applying the correct classification codes. For any questions on customs classification codes please contact the Australian Customs Service Information line on 1300 363 263, or visit their website (www.customs.gov.au).

A related issue is the use of CWC Scheduled chemicals in mixtures. Identification of regulated chemicals in mixtures poses a difficulty for both the user and the trader in ensuring that they comply with all relevant legal obligations. Some chemicals listed in Schedule 2 of the CWC include: fire-retardants used in the textile industry and polyurethane foam systems and an automotive antifreeze additive. Often these chemicals are only referred to by their trade names or product number. ASNO encourages industry to seek its advice if in doubt about whether the chemicals being used are captured under the CWC, or to clarify responsibilities under the *Chemical Weapons (Prohibition) Act 1994* and associated regulations.

The OPCW has produced a very useful document – Scheduled Chemicals of Special Interest. This document contains the most frequently traded CWC chemicals and is available at www.opcw.org/docs/publications/selectedscheduledchemicals.pdf.

The chemical industry in Australia is evolving and changing from day to day and this contributes to the challenge in identifying new industry which needs to be declared. ASNO takes every opportunity to raise awareness about the Convention through outreach visits, presentations to relevant industry associations and by distributing surveys. ASNO welcomes industry input into alternate ways to raise awareness about the Convention, identify new facilities that may be required to be declared under the provisions of the Convention, and to assist industry in meeting its regulatory obligations.

In April 2008, the OPCW will host the second CWC Review Conference of States Parties. The purpose of this special session is to review all relevant scientific and technical developments which might impact on the Convention. Although deliberations on CWC issues in The Hague might seem like a world away, the decisions reached may impact on Australian chemical industry. Australia continues to work with the OPCW and other States Parties to achieve international security objectives whilst also ensuring that its national and industry interests are protected.

International Outreach

International compliance with the CWC is very important to Australia. To this end, Australia has worked closely with a number of countries including Cambodia, Malaysia, Singapore, Sri Lanka, Thailand, Vietnam and Papua New Guinea. Australia will continue to provide whatever assistance it can to requesting States Parties.

More recently, Australia, Japan and Indonesia co-hosted an Industry Workshop on Implementing the CWC held in Jakarta (26-27 February 2007). Participants benefited by the attendance of Carlos Santin (PACIA) who was able to share first-hand Australian industry experiences complying with CWC-related regulations and in receiving OPCW inspections. The workshop was conducted with the

support of DFAT's Counter-Proliferation Outreach Program.



Josy Meyer (ASNO), Carlos Santin (PACIA) and Andy Rachmianto (Indonesian Government) at the Industry Workshop on Implementing the Chemical Weapons Convention, Jakarta, 26-27 February 2007.

In Conclusion

One of the lessons learned from the past decade of implementing the Convention in Australia is the importance of good working relationships and open channels of communication between government and industry. ASNO has worked hard to minimise the impact of the Convention on industry through awareness raising, streamlining the reporting process under the permit and notification systems, preparing industry in advance of inspections, and by taking into account industry concerns through the introduction of measures to help facilitate legitimate trade. The end result has enabled Australia to meet its Convention obligations and thereby demonstrate to the international community Australia's commitment to multilateral regimes against the proliferation of weapons of mass destruction.

ASNO Publications

- The Chemical Weapons Convention – A guide for Australian industry producing, using or trading chemicals, June 2004
- The Chemical Weapons Convention – Information for the importers of chemicals, October 2004
- The Chemical Weapons Convention – Inspection information for producers of chemicals, October 2004
- International Chemical Trade Control – Information for Australian Importers and Exporters of Chemicals, CD ROM (produced by the Department of Defence in collaboration with DFAT), Version 2.0, October 2004

These publications can be found on ASNO's website (www.dfat.gov.au/cwco/index.html). Hard copies are available upon request.

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¹ Refer to previously published article "The Chemical Weapons Convention: 10 years on", Chemistry in Australia, Volume 74, No. 3, April 2007 (magazine of the Royal Australian Chemical Institute Inc.).

² More information about Defence Trade Control and Compliance (DTCC) is available at <http://www.defence.gov.au/strategy/dtcc/> or by calling 1800 66 10 66.