

# **THE CHEMISTRY OF REGIONAL SECURITY - LOOKING FOR A BETTER RETURN ON THE CHEMICAL WEAPONS CONVENTION**

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## **Introduction**

This presentation will provide a personal and practical perspective on the performance of the Chemical Weapons Convention (CWC), particularly in regard to the South East Asian region. In doing so it will try to identify some of the challenges to the Convention's effectiveness, outline Australia's contribution, and look to the future.

## **Nature of the Convention**

The CWC is the only international regime that attempts to eliminate a whole class of weapon of mass destruction (WMD) in a verifiable way. Member states are required to prohibit chemical weapons (CW), destroy CW stockpiles and dismantle related capabilities, declare CW defensive research and dual-use chemical activities and allow short notice international inspections. Although less visible, the CWC also promotes the peaceful use of chemistry and assists States Parties in developing mechanisms for emergency responses to possible CW attack.

The Convention is implemented and verified internationally by the Organisation for the Prohibition of Chemical Weapons which is based in The Hague and whose Technical Secretariat has over 500 staff. ([www.opcw.org](http://www.opcw.org)).

## **Implementation Status**

Due to its development during the period of international cooperation immediately following the end of the "cold war", the regime combines intrusive verification provisions, including declarations and inspections, with considerable international transparency.

The CWC entered-into-force in April 1997 and as of 11 November 2005 had 175 States Parties, six of whom are declared CW possessors, including the US, Russia, India, Libya and Albania. By September this year, approximately 17% of the declared 71,000 tonnes of CW had been destroyed, and 2,200 inspections had been conducted to 860 of the 6000 declared military and industrial facilities worldwide.

In addition to verification by the OPCW, States Parties can check on the compliance of other members through selective access to their declarations (chemical site activity rather than trade) and the annual OPCW publication of a Verification Implementation Report. The May 2003 CWC Review Conference of States Parties made use of such information to assess implementation and to recommend improvements, which are still being worked through. General areas requiring attention include ensuring broad and comprehensive States Parties compliance, ensuring that CW stockpiles are destroyed in a timely manner, and making the verification arrangements effective.

## **An Effective Convention?**

Elements relevant to consideration of the CWC's effectiveness are its: scope; membership; level of compliance, including implementation legislation; and verification arrangements.

**Scope** – Scope here refers to coverage of chemical activities, especially commercial production and trade. The Convention primarily focuses on CW agents and dual-use chemicals as outlined in three risk-based Schedules. There is also provision to monitor and verify production activities of larger capability chemical facilities, which constitute the bulk of regulated sites. Furthermore, the CWC provides for the prohibition and prevention of other toxic chemicals being used for hostile purposes, which could have application in chemical counter-terrorism. However, this provision is a general one and States Parties traditionally concentrate their efforts on the Convention's specific requirements, namely the Schedules.

Although the Schedules of chemicals are a reasonable balance between and practicality, a problem is that they are not readily expandable to include additional relevant chemicals, because of likely difficulties in getting decision consensus, and concerns about identifying alternative means of producing CW. Also, the CWC does not regulate CW-relevant equipment, including for export. These potential loopholes are partly filled by the activities of the Australia Group, a collection of likeminded countries who seek to prevent the proliferation of chemical and biological weapons by harmonising effective export controls on chemical and biological dual-use goods. The controlled chemicals go beyond the Schedules and arrangements cover chemical production and other CW-related equipment ([www.australiagroup.net](http://www.australiagroup.net)).

In contrast to the Nuclear Non-Proliferation Treaty and safeguards arrangements, the CWC and its comprehensive requirements are all contained in the Convention itself. As such to make any change, including even minor chemical additions, might in effect necessitate its renegotiation, which would be very difficult.

**Membership** – Although the CWC is well on the way to universality, currently capturing about 95% of the world's population, of concern is the non-participation of some countries alleged to have CW programs, including North Korea, Syria, Egypt, Israel and until recently Libya which in deed declared a program. The CWC can only indirectly influence such countries, by denying or imposing controls on some of the dual-use chemicals imported from CWC States Parties. Not only can these countries possibly pursue offensive CW programs relatively unhindered, but they may prompt neighbouring countries to consider responding in kind.

**Compliance** – The level of compliance has been uneven. Compliance here relates primarily to meeting CWC obligations in regard to enacting relevant legislation, establishing a National Authority and making a range of declarations and notifications, which are the basis for verification including through inspections. For instance, as of

1 February 2005, only 26% of States Parties had full CWC implementing legislation, although most of the bigger and more chemically capable countries were compliant. These compliance deficiencies reflect lack of national resources and priority, rather than serious breaches.

The OPCW with States Parties has sought to address this situation through the institution of the CWC Article VII Implementation Action Plan which impose a November 2005 deadline for the implementation of - or at least serious progress toward - *inter alia*, legislation. Many will not meet this deadline, and new strategies will be needed in 2006.

Another compliance issue relates to the destruction of CW stockpiles. Only one of the six declared CW possessor States Parties - India - is on track to complete the destruction of its stockpile by 2007 as required by the CWC. Regrettably, other countries had to be seek extensions to their destruction schedules. Of these, Russia trails with only 2% of its 40 000 tonnes of CW destroyed to date.<sup>1</sup> Although extension of deadlines are permissible under the CWC, even this provision may be exceeded and for some stockpiles and associated risks to continue up to about 2015.

It might be possible for some States Parties to cheat on the Convention by conducting a secret offensive CW program or positioning themselves to have a CW capability when required. The latter could consist of having large multifunctional commercial chemical production plants, supplies of chemical precursors, and mobile munition filling systems. In a large chemical industry these activities would be hard to identify, especially since verification depends on State Party cooperation, and some elements are dual-use anyway. Even if some States Parties were cheating they would not necessarily use CW because of the CWC's reinforcement of international norms, and likely inherent delays in activating such a hidden, possibly non-purpose designed capability. With further improvements to the Convention's effectiveness and other things being equal, any such programs eventually may be dismantled.

Verification Arrangements – These need to be optimised and fully utilized. When the CWC entered into force, the full verification details had not been finalised. Moreover, the nature of some verification tasks has changed, with unanticipated demands in verifying CW destruction, and, in accordance with the Convention, certain organic chemical production facilities (OCPFs) becoming subject to full verification arrangements from 2000. Coupled with all this are recent changes in OPCW staff tenure arrangements which have caused more rapid personnel turnover in that organisation, including for key groups such as inspectors. These issues are manageable and being addressed by means such as introducing electronic monitoring systems, standardised procedures, new definitions where required, streamlined inspection processes and better risk-based methodologies for inspections.

A separate concern is that some of the Convention's verification tools such as clarification procedures and challenge inspections have not been used effectively. In the case of the challenge inspection this involves a State Party requesting the OPCW to conduct a comprehensive intrusive inspection of a suspect facility in another State Party. This should not be done lightly, but it has never been used despite some States

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<sup>1</sup> The speed of CW destruction in Russia should be improved by a number of new CW destruction facilities which will come online over the next few years. These facilities are largely subsidised by Western countries.

Parties' belief that others may be cheating on the Convention. Lack of use may be based on perceived difficulties in actually catching a country out, and the resulting international and political consequences. In contrast to the NPT, a CWC challenge inspection can only be triggered by a State Party and not the regime secretariat. Furthermore, the CWC does not allow for exploitation of public or other sources of information to verify declarations, in contrast to the NPT arrangements.

In Summary – In itself, I feel that the CWC is an adequate control regime for its designed purpose and taking into account the practical difficulties associated with military and industry chemical verification. The work of the Australia Group addresses one area of perceived weakness, trade in dual-use chemical equipment and technologies and other relevant chemicals.

Although the CWC has the potential to help deal with the threat of chemical terrorism, this is somewhat outside its planned mandate and would require States Parties support which has been lacking to date. In fact the greatest challenge to the overall effectiveness of the CWC is insufficient engagement and compliance by the States Parties including through meeting CW destruction deadlines, implementing CWC obligations and helping to refine OPCW operations. These are being addressed, although more slowly than was originally envisaged.

Even if some States and non-States Parties have offensive CW programs or capabilities, the existence of and improvements in the effectiveness of the Convention, combined with the need to hide and possibly decentralise such activities, will make CW use less likely if at all.

### **The Regional Security Dimension**

With Cambodia's recent accession, Burma is the only regional country to remain outside the CWC. However, compliance with the Convention is quite variable, with Singapore being particularly responsive, Thailand and Vietnam meeting many obligations, and some of the others having achieved little beyond membership and their initial declarations.

The limited compliance is largely related to higher priorities in an often resource-strapped environment. Although progress is being made, broad compliance is not likely for at least several years.

This lack of compliance is not likely to encourage CW programs in the region. However, inadequate implementation of the CWC chemical trade controls, including on chemicals transshipping through the area, may allow non-CWC States of concern access to dual-use chemicals in breach of the Convention. Also, the widespread lack of CWC-related legislation and associated prohibitions and penalties prevents the Convention addressing CW terrorism in one of the ways that it can.

### **Australia's Contribution**

Australia has been a long term advocate and proactive supporter of the CWC. Australia was highly instrumental in the finalisation of the CWC text, was the sixth

nation to ratify and has been one of the few countries consistently to submit all notifications and declarations on time and in full.

We have also provided assistance and advice regionally including to Vietnam, PNG, Thailand, Singapore, and Cambodia through: visits, presentations and training; sharing our implementation tools and brochures; commenting on draft legislation; exchanging relevant trade data; and helping with making declarations to the OPCW. On a regular basis we contribute to the development of improved CWC verification measures and respond to requests to outline Australia's chemical trade tracking systems which are amongst the best in the world. Australia's National CWC Strategy has as its most important objectives effective CWC implementation and comprehensive State Party compliance.

Australia is concerned about uneven CWC implementation in the region and attaches a priority to improving it. It is unlikely that the current situation will pose a military threat although poor chemical controls might assist chemical programs further afield and fail to help prevent regional chemical terrorism which might impact on Australia or Australians in the area.

As outlined in Australia's recent White Paper, Australia's joint efforts with regional partners also address many security issues in addition to CWC implementation.

## **Outlook**

The effectiveness of the CWC will gradually increase further, especially as compliance improves, verification processes are enhanced and stockpile destruction regains pace. In the region, most could be achieved through diplomatic pressure, undertaking in-country practical workshops, and integrating efforts with counter-terrorism, export control and UNSCR1540 outreach initiatives. Australia will continue to contribute to these efforts at many levels, and often lead by example. As a consequence, the low level of military chemical threat, particularly to Australia, will recede further, although preventing terrorism including that with chemicals will require broad-based and ongoing engagement and likely remain hard to predict.