



OPCW

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THE FEDERAL REPUBLIC OF GERMANY

**GERMANY'S EXPERIENCE WITH THE CHEMICAL WEAPONS CONVENTION
SINCE IT ENTERED INTO FORCE IN APRIL 1997**

1. For the purpose of this year's Review Conference, Germany has carried out an extensive review of its implementation efforts vis-à-vis the Chemical Weapons Convention (hereinafter the "Convention") and wishes to inform the States Parties, in accordance with paragraph 5 of Article VII, and paragraph 2(e) of Article XI of the Convention, of all the implementation steps that Germany has taken.

2. **Key features of Germany's implementation of the Convention**

Germany implemented the Convention into its national law on 2 August 1994 (Federal Law Gazette 1994 I, p. 1954 ff.).

3. **General Purpose criterion**

The provisions of Germany's War Weapons Control Act of 20 April 1961, in conjunction with complementary provisions of the Convention Implementation Act of 2 August 1994, are even more strict than those contained in Article I of the Convention. Under these Acts it is prohibited to develop, produce, acquire or transfer, import, export, transport through Federal territory or trade in chemical weapons, or to otherwise exercise actual control over these weapons. Furthermore, it is also prohibited to willfully or recklessly encourage or induce another person to develop, produce, etc. chemical weapons. "Encourage" in this context means any supportive action, for example the supply of systems or system components for the production of chemical weapons or the provision of know-how. "Induce" means incite. "Recklessly" corresponds in essence to gross negligence.

4. **Export control regulations**

In accordance with paragraph 2(e) of Article XI of the Convention, Germany has reviewed its existing national regulations in the field of chemicals and has adapted them where necessary in order to render them consistent with the object and purpose of the Convention. Export control regulations are laid down in the Foreign Trade and Payments Act of 28 April 1961, last amended on 16 August 2002; the Foreign Trade and Payments Ordinance of 18 December 1986, last amended on 21 December 2002; and the Export List, an Annex to the Foreign Trade and Payments Ordinance, in the most recent version of 16 September 2002. European



Union (EU) regulations setting up a Community regime for the control of the exports of dual use items and technology by the Council are contained in Council Regulation (EC) No 149/2003 of 2 February 2003, and in the EU Common Export Control List, Annex I to 149/2003.

5. Penal legislation

The War Weapons Control Act, the National Implementation laws to the Convention and the aforementioned export control regulations are enforced by penal sanctions. The penal sanctions for breaching the regulations of the War Weapons Control Act as well as the export control law only cover incidents which occur within the territory of the Federal Republic of Germany, but also extend to any breach of these regulations by a German national outside German territory. This provision is also present in the implementing legislation of the Convention.

6. Declarations of old chemical weapons

The legal basis for these declarations under Article III of the Convention is the Regulation Implementing the Chemical Weapons Convention of 14 July 1994 (Federal Law Gazette II, p. 805 ff.).

This regulation stipulates that the Federal Armed Forces Center for Verification is responsible for the collection, review and transmission of declaration data for old chemical weapons under Article III of the Convention.

There have been 16 inspections in Germany relating to old chemical weapons. All inspections were completed in full satisfaction and to date there have been no reports of issues requiring further attention.

As of 27 April 1997 Germany had initial holdings of 3,946 items of old chemical weapons. Of those old chemical weapons, 3,915 dated back to before 1925, and 31 to before 1946 but after 1925. Between the years 1997 and 2002 an additional 1,155 old chemical weapons dating back to before 1925 were recovered, and 3,367 dating back to before 1946.

As of December 2002, Germany had destroyed a total of 4,400 old chemical weapons, of which 2,104 dated back to before 1925, and 2,336 to before 1946.

7. Activities not prohibited under the Convention

(a) Declarations under Article VI of the Convention:

The legal bases for these declarations are the regulations implementing the Chemical Weapons Convention (CWCIR) of 20 November 1996 (Federal Law Gazette I, p. 1794 ff.) as amended by the first regulation amending the CWCIR of 14 April 2000 (Federal Law Gazette I, p. 530) and the second regulation amending the CWCIR of 16 May 2002 (Federal Law Gazette I, p. 888) issued pursuant to Article 3 of the Act Implementing the Chemical Weapons Convention (AICWC) of 02 August 1994 (Federal Law Gazette I, p. 1954 ff.).

Accordingly, the Federal Office of Economics and Export Control (BAFA) is responsible, among other things, for the collection, review and transmission of declaration data under Article VI of the Convention.

The Federal Republic of Germany was among the first states ratifying the Convention on 12 August 1994 and was, thus, one of the States Parties at the time of entry into force of the Convention (29 April 1997). In accordance with Article VI, paragraph 7 of the Convention, the initial declaration was submitted to the Technical Secretariat (hereinafter the "Secretariat") of the OPCW 30 days later on 29 May 1997. Since that time, the annual declarations under Article VI, paragraph 8, have been prepared for the Secretariat of the OPCW. Up to now company declarations with a volume of about 16,000 pages were collected and evaluated.

In order to ensure that Germany fulfils its national obligations, extensive data bank and reference enquiries about companies possibly concerned were made in advance. In close co-operation with the Association of Chemical Industry (VCI) and other industrial associations, more than 9,500 companies were informed about the new obligations and asked for information referring to the handling of scheduled and DOC chemicals.

Also after the conclusion of this investigation and the initial declaration, regular enquiries were made to guarantee that companies, which became subject to declaration later on, could comply with these requirements.

In addition, BAFA organises information seminars together with the relevant industrial associations in order to familiarise the companies with major new trends of the Convention.

New decisions in the Convention, particularly technical details referring to its implementation, are published by BAFA in the Federal Gazette. Furthermore, guidelines and information leaflets are prepared for the companies concerned; all these Convention-relevant documents may also be obtained from BAFA's homepage.

Via the Federal Foreign Office, information leaflets are distributed to German embassies in order to inform German nationals abroad about the obligations and prohibitions contained in the Convention.

At present (declaration of past activities 2002) 184 companies fall under the Convention in Germany (including double naming: 144 DOC, 27 Schedule 2, 18 Schedule 3, 59 traders). Apart from traditional chemical industry and trade companies, there are also textile finishing, galvanic, building material and plastics industries among the companies concerned.

In addition, Germany also supports other States Parties in the drafting of their own legislation, in particular for the establishment of a well-functioning declaration system.

(b) Industry inspections in Germany

In accordance with Part II C paragraph 16 of the Verification Annex to the Convention (hereinafter “the Verification Annex”), Germany has designated five points of entry for the purpose of inspections.

In Germany, the following plant sites are currently subject to inspection according to the declaration of anticipated activities for 2003 and the declaration of past activities for 2002: 22 plant sites under Part VII of the Verification Annex ("Schedule 2 plant sites"), 16 plant sites under Part VIII of the Verification Annex ("Schedule 3 plant sites") and 143 plant sites under Part IX (DOC or PSF plant sites, respectively). Since the entry into force of the Convention, a total number of 37 inspections have been conducted in the German industry up to now. These include 29 initial inspections in Schedule 2 plant sites, seven inspections in Schedule 3 plant sites and one inspection in a DOC/PSF plant site. The inspections were mainly conducted in plant sites of the chemical industry, but also in five plant sites of the plastics industry (certain Schedule 2 plant sites). No subsequent inspections have taken place in Schedule 2 plant sites yet. The inspections were conducted in accordance with the Convention and corresponding national implementing legislation (Articles 7 to 13, CWCIA). The inspection teams were supported by national escort teams (consisting of the same number of persons as the inspection team plus one to two interpreters). Before the inspections, the inspectable plant sites were visited by members of the national escort team to help prepare the facilities concerned for forthcoming inspections (the preparation comprised advice on the delineation of the inspectable area, the identification of relevant records, logistical questions, etc.). This contributed to the smooth and time-efficient conduct of the inspections.

(c) Restrictions on imports or exports of chemicals listed in Schedules 1 to 3

The import and export prohibitions and restrictions laid down in the Convention for chemicals listed in Schedules 1 to 3 were implemented on a national legal basis (Sections 1 to 3, CWCIR). Thereby, the export licensing requirements already existing under the EC Dual-Use Regulation were supplemented.

The trade of Schedule 1 chemicals with States not Party to the Convention is prohibited. Imports from and exports to other States Parties are subject to authorisation in accordance with the CWCIR.

In case of Schedule 2 chemicals, imports from and exports to States not Party to the Convention have been prohibited since the year 2000. Up to the entry into force of this prohibition, export licences were required pursuant to the CWCIR and the EC Dual-Use Regulation.

In case of Schedule 3 chemicals, exports to States not Party to the Convention are subject to authorisation under the CWCIR and the EC Dual-Use Regulation. Export licences for Schedule 3 chemicals require the submission

of a governmental end-use certificate issued by the receiving country; this document is verified by the German export control authority.

8. National implementation measures

Germany implemented the Convention through a national law on 2 August 1994 (Federal Law Gazette 1994 I, p. 1954 ff.).

In accordance with Article VII paragraph 1 of the Convention, the regulations implementing the Convention of 20 November 1996 (Federal Law Gazette I, p. 1794 ff.) as amended by the first regulation amending the CWCIR of 14 April 2000 (Federal Law Gazette I, p. 530) and the second regulation amending the CWCIR of 16 May 2002 (Federal Law Gazette I, p. 888) prohibit any legal or physical person to undertake any activity that is prohibited under the Convention. These laws are enforced by penal legislation, and apply on German territory as well as for all German citizens regardless of whether they are in Germany or abroad.

As required by Article VII paragraph 4, the Federal Foreign Office, which is the lead ministry for Convention affairs, was designated to be Germany's National Authority. As such, the National Authority in Germany serves as liaison with the OPCW and other States Parties, as well as facilitator within Germany, where it ensures, together with all involved ministries and governmental authorities, the proper implementation of the Convention. For this purpose, the National Authority regularly exchanges relevant information with all involved ministries, governmental authorities and industry organisations. It also holds formal meetings to facilitate the implementation.

9. Consultation, cooperation and fact-finding

Germany remains deeply committed to the consulting process among States Parties and consults on a regular basis with other States Parties on various issues, as permitted and encouraged under Article IX, paragraph 1 of the Convention.

10. Assistance and protection against chemical weapons

Germany has submitted and regularly updated its plans for civil defense against an attack with CW. Germany actively participates in the protection network, a group of experts in the field of civil defense that meets on a regular basis.

11. Economic and technological development

With the help of a worldwide network of German companies and subsidiaries, the German chemical industry ensures that economic and technological development for purposes not prohibited under the Convention is further strengthened amongst all States Parties.

Through its chemical industry, Germany also participates in the OPCW's Associate Program, providing interns from developing countries to be trained in production, environmental protection, research and development, logistics and marketing.

Germany is proud to be associated with this program, which trains future experts in the associates' respective countries.

12. Assistance to the Russian Federation for the destruction of its CW stockpile

While Germany is a non-possessor State, it has helped in the past, and continues to help, the Russian Federation, which has the highest number of declared CW of all possessor states, to destroy its CW. Over the last years Germany has contributed over 40 million EURO to the CW destruction facility at Gorny. This year alone, Germany plans to contribute another 8.24 million EURO for the only Russian CW destruction facility that is currently running. Both sides agree that the destruction of CW is the Russian Federation's sole responsibility.

Germany is prepared to spend 23.5 million EURO this year, and is planning to spend similar amounts in the years to come, on a similar but bigger destruction facility in Kambarka.

13. Further information

Further information on Germany's implementation of the Convention can be obtained from the Foreign Office and the BAFA web sites at:

General Information:

http://www.auswaertiges-amt.de/www/en/aussenpolitik/friedenspolitik/abr_und_r/cwue_html

German Declaration Guide:

http://www.bafa.de/4/allg/english/cwc/pdf/cwc_guid.pdf

Full text of relevant legal documents:

Act Implementing the Convention:

http://www.bafa.de/4/allg/english/cwc/pdf/cwc_aic.pdf

Regulation Implementing the Convention:

http://www.bafa.de/4/allg/english/cwc/pdf/cwc_ric.pdf

1. Regulation Amending the CWCIR:

http://www.bafa.de/4/allg/english/cwc/pdf/cwc_1ame.pdf

2. Regulation Amending the CWCIR:

http://www.bafa.de/4/allg/english/cwc/pdf/cwc_2ame.pdf