

OPCW

Organisation for the Prohibition of Chemical Weapons



Chemical Weapons Convention

National Implementation Framework

February 2019

منظمة حظر الأسلحة الكيميائية

禁止化学武器组织

Organisation for the Prohibition of Chemical Weapons

Organisation pour l'Interdiction des Armes Chimiques

Организация по запрещению химического оружия

Organización para la Prohibición de las Armas Químicas

Explanatory note and disclaimer

This national implementation framework has been developed for the information and use of National Authorities designated or established by the States Parties in fulfilment of their obligations under Article VII, paragraph 4 of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (“CWC”). It is also designed to be accessible to the broad range of national stakeholders that may have a role in CWC implementation. As such, it is intended to provide a clear and straightforward guide to some key elements of Convention implementation. For this reason, the framework takes a thematic approach to CWC implementation, rather than an article-by-article approach, and for the sake of simplicity it does not refer to Convention obligations that arise from the possession of chemical weapons. The framework is intended to be a living document that will change over time; the provided list of implementation best practices may be modified and expanded as more such practices are identified.

The obligations listed in this document are not exhaustive and do not constitute legal advice. The framework is designed to assist States Parties in the national implementation of the CWC; however, the legal texts of the OPCW, including the CWC and its Annexes, and decisions adopted by the Policy-Making Organs of the OPCW are the primary legal sources that must be taken into consideration in the fulfilment of Article VII obligations.

The information contained in this framework is accurate to the best of the OPCW’s knowledge; however, neither the OPCW nor the individuals involved in the development of this framework shall be liable under any circumstances for the correctness, accuracy or comprehensiveness of such information, or for the consequences of its use.

OPCW Technical Secretariat
Johan de Wittlaan 32
2517 JR The Hague, The Netherlands
+31 70 416 3300

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Introduction

The Chemical Weapons Convention (CWC) is an international disarmament treaty intended to exclude completely the possibility of the use of chemical weapons. The Convention prohibits the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons, and provides for the destruction of existing stockpiles.

Achieving the object and purpose of the CWC requires the full and effective implementation of the Convention at the national level by each State Party. National implementation encompasses four key areas relevant to the Convention's goals: disarmament (in cases where a State Party possesses chemical weapons), preventing the re-emergence of chemical weapons, assistance and protection, and international cooperation in the peaceful uses of chemistry. For this reason, national implementation by all States Parties is critically important for the success of the treaty as a whole.

Article VII of the Convention describes the national implementation measures that should be taken by each State Party. Those measures include baseline administrative and legislative measures, such as translating the Convention's prohibitions to the national level, as well as an obligation to designate or establish a CWC National Authority.

Beyond these baseline measures, national implementation also requires action across a broad range of security, development and trade related issues. On the security side, national implementation requires States Parties to carry out chemical weapons disarmament (if relevant), to monitor the chemical industry and the trade in toxic chemicals, and to establish a robust response and protection mechanism against chemical weapons attack. On the development side, national implementation allows States Parties' to benefit fully from the right to peaceful uses of chemistry, and the exchange of relevant equipment and scientific and technical knowledge. Full and effective implementation of the Convention can assist States Parties to counter a range of chemical threats, including those posed by chemical terrorism.

While implementation of all provisions of the Convention is a primary responsibility of the States Parties, the CWC also empowers the OPCW Technical Secretariat to carry out several important tasks. These include operating the Convention's international verification regime, which verifies all chemical weapons-related activities and ensures routine monitoring of the global chemical industry through data collection and on-site inspections. The Secretariat is also mandated to "provide technical assistance and technical evaluation to States Parties in the implementation of the provisions of this Convention, including evaluation of scheduled

and unscheduled chemicals". The OPCW's international cooperation and assistance programmes are founded on this mandate.

Since the entry into force of the CWC, the Secretariat has made significant efforts to encourage and assist States Parties in their endeavours to nationally implement the CWC. It has done so through annual and regional meetings of National Authorities, thematic workshops in different modalities, and the creation of tools such as the national legislation implementation kit.

Building on these efforts, more needs to be done. In particular, it is important for each State Party, as well as the Secretariat, to have a good understanding of where it stands in the national implementation process, and what further steps it can take towards full and effective implementation of the Convention. The goal of the National Implementation Framework is to assist States Parties in that process.

Purpose and objectives

The purpose of the National Implementation Framework is to facilitate the full and effective implementation of the Convention in all States Parties. Its objectives can be summarised as follows:

- To build awareness among the States Parties to the Convention on the complex and comprehensive nature of national implementation process;
- To provide an overview of the current status of CWC national implementation;
- To identify gaps and areas where further progress is needed;
- To provide a framework for developing a national CWC implementation action plan;
- To inform the Technical Secretariat, so it can better tailor its programme assistance to the needs of the States Parties as well as facilitate assistance which could be provided by interested States Parties; and
- To ensure better knowledge management and sharing within the State Party regarding the status of CWC national implementation.

The framework should be used as the basis for producing **a comprehensive needs assessment and a CWC national implementation action plan** in cooperation with national stakeholders and with the support of the Secretariat, if requested. This action plan will be an evolving document which should be developed to reflect national priorities and the national context. The outcome of the process will also be useful in informing the OPCW and other States Parties (if desired by the State in question) about specific areas and aspects of national implementation where support and assistance is needed. In this way, the national implementation framework will contribute to the design of the Secretariat's capacity-building

programmes, ensuring that those programmes contribute directly to meeting States Parties' national implementation needs and priorities.

The framework promotes an integrated approach to implementation of the Convention by encouraging States Parties to recognize the complexity and the interlinkages of actions needed to be undertaken to implement specific obligations. For instance, enforcement of the transfers regime of scheduled chemicals required under Article VI and the Verification Annex, presupposes the adoption of the necessary laws and regulations which regulate trade in chemicals and the establishment of effective interagency cooperation.

Implementers

According to the Convention, States Parties must designate or establish a National Authority, which serves as the national focal point for effective liaison with the OPCW and with other States Parties. However, this does not mean that National Authorities are the only implementers of CWC obligations at the national level. Rather, they have a key coordination role in the national implementation process, as they are expected to coordinate the efforts of all other relevant national stakeholders.

The Convention does not specify the manner in which a National Authority shall be designated or established, nor does it provide guidance on the National Authority's structure and any stakeholder coordination mechanisms. States Parties are free to decide on those matters according to their specific national context as well as their thematic priorities in CWC implementation. To be effective, National Authorities need to be empowered with the appropriate financial and human resources as well as the knowledge base to fulfil the national coordination function for CWC implementation.

All state and non-state institutions and agencies which are relevant to CWC implementation are considered national stakeholders. Those may include Offices of the President and/or the Prime Minister, various ministries or government departments (such as Foreign Affairs, Defence, Industry, Economy, Finance, Interior, Health, Environment, Education, Customs, Police, etc.), parliament, chemical and related industries, academic and research institutions as well as non-governmental organisations.

The National Implementation Framework process

The national implementation framework is designed as a process comprising a number of steps which lead to a national implementation action plan.

The first three steps provide for a needs assessment on which the action plan should be based.

Step 1: Context analysis

Implementation of the CWC is not the same in each State Party. While the Convention provides for some specific implementation measures that are common to all States Parties (such as enacting penal legislation and establishing a National Authority), it also allows each State Party to determine what is necessary with regards to achieving certain obligations set out in the Convention, depending on the State's national context. Factors that may be taken into account in determining which measures may be necessary include the State's security situation; the types and quantities of toxic chemicals present in or transiting through its jurisdiction; the state of development of its chemical industry; its state of preparedness for a chemical attack or incident; and so on.

The context analysis should also consider **two key enabling factors** for the process of full and effective national implementation: the existence of an effective National Authority with capacity to effectively coordinate all relevant stakeholders, as well as a legislative framework which includes all initial measures¹ required as part of the national implementation process.

¹ The "initial measures" comprise the minimum set of legislative measures deemed necessary for a non-possessor State Party that has no declarable chemical production facility on its territory. They pertain to:

- (a) definitions under the Convention;
- (b) a comprehensive control regime for scheduled and toxic chemicals and reporting on transfers (import and export) of scheduled chemicals;
- (c) prohibited actions and activities;
- (d) penalties for violations of the law;
- (e) extraterritorial application of penal legislation to national (natural persons);
- (f) a legal basis for developing implementing regulations; and
- (g) the establishment of a National Authority.

Step 2: Stakeholder analysis

CWC national implementation requires the involvement and coordination of various national stakeholders. As the second step in the national implementation framework process, the National Authority should identify the relevant stakeholders and their roles in CWC implementation. These stakeholders are likely to include the chemical industry and other users or producers of toxic chemicals; enforcement agencies such as police, customs or other agencies defined by regulation; response agencies such as police and fire or civil defence services; and any other government agency the activities of which have a bearing on CWC implementation.

The OPCW regularly holds training events for national stakeholders - National Authorities are advised to keep a record of participants in OPCW training so that they can be actively involved in the national implementation process and serve as resource persons.

Step 3: Identifying gaps and formulating priorities

Once the context and stakeholder analyses are complete, the next step is to identify areas of national implementation where progress is needed. Such a process may include the following:

1. Determine existing national implementation measures

National implementation measures that have already been put in place should be taken into account. These include legislative and regulatory measures, chemical preparedness and response capabilities, safety and security policies and practices, counter-terrorism efforts as they relate to toxic chemicals, and the current structure and capacity of the National Authority and its work with partner agencies.

2. Review the effectiveness of the existing national implementation measures

As national contexts may change over time, States Parties should also analyse regularly whether existing implementation measures are adequate. Questions the State Party may pose in this process include whether its legal and regulatory measures satisfy the baseline requirements of the Convention, whether national controls on toxic chemicals are adequate in light of evolving security threats, whether its chemical industry is sufficiently incentivised to provide the necessary declarations information to the National Authority, whether its customs authorities have sufficient legal powers to enforce the Convention's transfers regime, and so on.

3. Identify the gaps in implementation

Using the indicative lists set out below, which may be adjusted according to the State Party's requirements and context, a list of required action areas should be built up. These action areas will be the core of the national implementation action plan.

4. Prioritise

Depending on the specific national and regional context, the outcomes of the gap analysis, and the available resources, each State Party may prioritise different objectives and tasks for CWC implementation for a given period of time. In prioritising, the States Parties may also consider social, political, environmental and macroeconomic factors that have an impact on the national implementation of the Convention as well as any relevant factors from the regional context. Each priority identified by the National Authority and relevant stakeholders should envisage achievement of concrete results at the output (short-term) and outcome (long-term) levels.

Implementation priorities may include, but are not limited to, such issues as: effective functioning of the National Authority, national implementing legislation, chemical safety and security, economic and technological development, national capacity in assistance and protection, OPCW and national industry inspections, securing and accounting for the trade in scheduled chemicals, education and outreach, etc.

Step 4: Creating a National Implementation Action Plan

A National Implementation Action Plan is important for summarising in a structured manner the actions to be taken by the National Authority in collaboration with relevant stakeholders in the near future. The Action Plan, which may cover a period of 2-3 years, can serve as a basis for monitoring progress in CWC national implementation. The Action Plan should be viewed as a working document, as it can be updated with regards to the progress made and adjusted to changes in the national context.

The following template of the Action Plan can serve as guidance for National Authorities, who are also free to adopt their own format.

#	Priority objective	Action <i>Actions which must be completed to achieve the objective</i>	Responsible <i>The agency responsible for the action</i>	Partners <i>Stakeholders whose cooperation is required</i>	Budget <i>Financial resources required</i>	Timeframe <i>When the action must be completed</i>	Status <i>Completed /in progress</i>
1.							
2.							
3.							
4.							
5.							

It is essential that development of the action plan is accompanied with a proposal for its monitoring and evaluation. States Parties need to propose how and by whom the implementation of the action plan will be monitored and assessed.

National implementation check-list: obligations and best practices

The Technical Secretariat has been requested by the States Parties to provide guidance on national implementation by suggesting a "check-list" which will inform them about necessary activities to be undertaken to ensure compliance with the Convention's obligations.

Therefore, the Secretariat has developed a list of suggested activities to guide the process of analysis, prioritisation and planning of the actions related to the national implementation. The suggested list consists of five key themes (general, verification, managing chemical threats, responding to chemical emergencies, and facilitating economic and technological development through chemistry) and includes both obligations and best practices. It is not exhaustive and can be further expanded and adjusted, but it does contain activities which are considered to be essential for all States Parties.

When measuring progress in implementation of these activities, National Authorities are encouraged, where appropriate, to develop and use specific indicators.

General

Obligations (corresponding CWC provision in brackets)²	Implementation best practices
<ul style="list-style-type: none"> • Adopt the necessary legislative and administrative measures to implement CWC obligations (VII) • Notify OPCW of amendments to national implementing legislation or measures (VII) • Establish or designate a National Authority (VII) • Treat as confidential information provided in confidence by the OPCW (VII) • Cooperate with the Technical Secretariat in the exercise of all its functions and provide assistance to the Technical Secretariat (VII) • Pay assessed contributions to the OPCW in full and on time (VIII) 	<ul style="list-style-type: none"> • Use the National Implementation Framework • Develop a CWC national implementation action plan and ensure appropriate resource allocation for its execution (funding and staff) • Share national implementation action plan with the OPCW Technical Secretariat to help inform capacity-building, and with other States Parties that could offer implementation support • Prior to adopting implementing legislation, ensure that the CWC National Authority has the legal basis to facilitate the adoption process • Identify relevant stakeholders and establish focal points on CWC • Develop terms of reference for relevant stakeholders which will clarify their roles and responsibilities with regard to CWC implementation • Hold regular coordination meetings with relevant stakeholders • Ensure regular national engagement in OPCW capacity building in accordance with gaps identified in the national implementation action plan

² The obligations and best practices listed in this table are designed as an accessible reference guide only. The Technical Secretariat reminds users that the text of the CWC and decisions adopted thereunder by the Policy-Making Organs of the OPCW are the only authentic legal reference. The provisions in this document do not constitute legal advice.

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| | <ul style="list-style-type: none">• Select the most relevant national candidates for OPCW capacity-building and maintain a record of participants in such programmes• Establish a knowledge sharing mechanism and require participants in OPCW capacity building to share gained knowledge through meetings and reports• Establish adequate knowledge management processes within the National Authority (information repository and knowledge transfer procedures)• Inform the OPCW about changes in national focal points• Hold national CWC capacity building and awareness raising events• Partner with other National Authorities to share lessons learned, implementation tools, etc. (Twinning Programme)• Actively involve specialised institutions with technical/scientific expertise in the CWC implementation process (e.g. customs laboratories, research laboratories etc.) |
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Verification

Obligations (corresponding CWC provision in brackets)³	Implementation best practices
<ul style="list-style-type: none"> • Adopt the necessary measures to control all activities subject to declaration according to the CWC (VI) • Submit initial declarations (III, VI) • Submit annual declarations on anticipated and past activities on the chemicals and facilities specified in the Convention (Verification Annex) • Receive OPCW inspections and ensure affected industry is prepared to do so (VA) • Update initial declaration, as required, with respect to riot-control agents (III) • Conclude a facility agreement with the OPCW in relation to each Schedule 1 facility (VA, Part III, A(3)) • Extend privileges and immunities to members of inspection teams (VA, Part II, B) 	<ul style="list-style-type: none"> • Evaluate declaration-related information and identify discrepancies in declarations submitted by plant sites, traders, etc., including by verifying the information from different sources. • Perform a periodic review of the activities controlled by the CWC and make the necessary updates to declarations in a timely manner. • Require declared plant sites to retain records and other information used to prepare declarations so that these can be utilised during inspection activities • Identify discrepancies in declarations received from national stakeholders before submission to the OPCW • Use OPCW tools to identify CWC scheduled chemicals (Handbook on Chemicals, Online Schedule Chemical Database, Most Traded Schedule Chemical brochure); • Use OPCW tools for the preparation and submission of declarations (Declarations Handbook, EDNA and SIX) • Reach out to potentially-affected industry and related entities about the CWC and

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	<p>its corresponding obligations</p> <ul style="list-style-type: none">• Establish inspection guidelines for chemical industry sites that could receive OPCW inspections• Keep a record of key contacts for facilities subject to declaration• Organise national inspections or technical assistance visits to share CWC expertise, assist with declarations, ensure adequate security measures, and prepare for possible inspections• Monitor and analyse chemical industry and trade flows• Use all available data to identify declarable activities• Train customs officers on the CWC transfers regime of scheduled chemicals• Assess and approve new equipment added to the OPCW's inspection toolkit• Respond to requests from the secretariat on issues related to declarations that need clarifications (transfer discrepancies, incomplete declaration, late submission of declarations, submission of amendment to declarations, etc.)• Provide to the OPCW annually information that would impact activities such as inspections (e.g., national holidays)• Negotiate a bilateral agreement with the OPCW Technical Secretariat on privileges and immunities
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Managing Chemical Threats

Obligations (corresponding CWC provision in brackets)⁴	Implementation best practices
<ul style="list-style-type: none"> • Adopt the necessary measures to ensure that all toxic chemicals and their precursors are only used for non-prohibited purposes (VI, XI⁵) • Adopt penal sanctions applicable to natural and legal persons for undertaking any activity prohibited by the Convention (VII) • Cooperate with other States Parties and afford the appropriate form of legal assistance to facilitate the implementation of the legal obligations regarding adoption of necessary legal measures (VII) • Enforce, through trade controls, the transfer regime related to scheduled chemicals (VA) 	<ul style="list-style-type: none"> • Carry out a national threat and risk assessment exercise to determine the measures necessary to ensure that toxic chemicals and their precursors are only used for peaceful purposes • Implement at the national level measures deemed necessary to ensure the physical security of toxic chemicals, e.g. chemical security regulations, guidelines, or codes of practice • Examine national laws to ensure that there are appropriate offences which could be used to prosecute indirect perpetrators of Convention-related crimes at the domestic level • Cooperate with other States Parties in investigating incidents involving non-State actors • Share with other States Parties information related to cases of developing, producing, acquiring, stockpiling, retaining, transferring or using chemical weapons by non-State actors, as well as completed domestic

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⁵ Decision C-16/DEC.10, dated 1 December 2011, recognises that the implementation of Article XI includes chemical safety and security measures. These measures in turn contribute to managing chemical threats.

investigations related to chemical weapons, including information on criminal or other legal proceedings

- Monitor and analyse chemical industry and trade flows
- Put in place and promote the wide adoption of effective chemical safety and security practices at chemical enterprises and share relevant experience with other States Parties
- Build national laboratory capabilities competent to analyse toxic chemicals and their precursors, including CWC scheduled chemicals
- Obtain and maintain OPCW laboratory designation
- Implement programmes for education and training in chemical safety and security directed towards different stakeholders (academia, industry, retailers)
- Promote the adoption of scientific codes based on The Hague Ethical Guidelines and ensure that CWC-related themes are included in national teaching programmes and syllabuses
- Increase chemical security awareness among those dealing with toxic chemicals and their precursors, including producers, transporters, distributors, laboratories, etc.
- Encourage chemical industry to share information about the CWC with customers who might have resulting declaration requirements or who might need to ensure the adequate security of toxic chemicals

Responding to Chemical Emergencies

Obligations (corresponding CWC provision in brackets)⁶	Implementation best practices
<ul style="list-style-type: none"> • Provide assistance through the Organisation in one of the following three ways: (X) <ul style="list-style-type: none"> ○ by contributing to the voluntary OPCW fund for assistance, or ○ by concluding with the OPCW an agreement on the provision of assistance on demand, or ○ by declaring the kind of assistance that might be provided in response to an appeal by the organisation. • Facilitate the fullest possible exchange of means of protection against CW (X) • Annually provide information to the Technical Secretariat - in the format adopted by decision C-9/DEC.10, dated 30 November 2004 –on national programmes related to protection against chemical weapons (X) 	<ul style="list-style-type: none"> • Establish and maintain a national programme related to protection against chemical weapons • Identify national stakeholders mandated to respond to chemical emergency or attack (e.g. first response agencies, armed forces, etc.) and facilitate inter-agency cooperation • Develop and establish national capacity building programmes based on the knowledge and skills obtained from OPCW capacity-building and other international training providers • Consult the OPCW’s assistance and protection data bank • Strengthen national capacity by implementing a “Training of Trainers” approach • Adopt measures to enhance national, regional and sub-regional coordination (such as first-response networks) in cases of chemical

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	<p>attacks or emergencies</p> <ul style="list-style-type: none">• Make available to the OPCW Technical Secretariat national training programmes that can be offered to other States Parties• Build national laboratory capabilities competent to analyse toxic chemicals, including CWC scheduled chemicals, as part of emergency response and investigation• Develop and maintain national capabilities for medical management of chemical casualties• Offer national training facilities for first responders where OPCW training can be conducted, if available• Offer, where available, surplus assistance and protection equipment to the OPCW Technical Secretariat for training purposes• Request assistance from the Technical Secretariat when unable to fulfil the declaration requirements of Article X
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Facilitating economic and technological development through chemistry

Obligations (corresponding CWC provision in brackets) ⁷	Implementation best practices
<ul style="list-style-type: none"> • Facilitate the exchange of chemicals, equipment and scientific and technical information related to the peaceful uses of chemistry (XI) • Not maintain any restrictions which would restrict or impede trade and the development and promotion of scientific and technological knowledge (XI) • Review existing national regulations in the field of trade in chemicals in order to render them consistent with the object and purpose of the Convention (XI) 	<ul style="list-style-type: none"> • Provide national training programmes in the fields of analytical chemistry • Establish national capacity (in the form of national chemical associations or hubs) for the strengthening of local expertise on technical and scientific issues related to the CWC • Participate in the OPCW's Equipment Exchange Programme • Enhance national capabilities for chemical analysis, including through ensuring the presence of laboratories capable of employing specific analytical techniques and equipment (GC/MS, IR, fume hoods, etc) • Support scientific research in the peaceful uses of chemistry • Address general and crosscutting issues related to the promotion of the peaceful use of chemistry, including gender mainstreaming and ensuring interaction between the scientific and policy-making communities

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The way forward

National Authorities are invited to use the national implementation framework for preparing, in consultation with their relevant national stakeholders, a needs assessment and a comprehensive national implementation plan which would map out in detail the process of national implementation as well as potentially serve as the basis for the Secretariat to assess the needs and priorities of States Parties to facilitate solutions.

The Secretariat will continue further elaboration of the national implementation guidance by developing specific methodologies for risk assessment and through collecting feedback from the States Parties which decide to use the framework.

The Secretariat will also consider holding specific workshops for States Parties to discuss their experiences in using the framework and to streamline its further guidance on national implementation.