

## The Obligation of the OPCW and its States Parties to Recover and Destroy Chemical Weapons Dumped in Water – International Dialogue on Underwater Munitions

Mr Chairperson, Mr Director-General, Your Excellencies, Distinguished Colleagues, Ladies and Gentlemen,

I am Yiqun Wang, speaking on behalf of the International Dialogue on Underwater Munitions, a Dutch and Canadian Foundation. Yesterday, the International Technology Advisory Board on Sea Dumped Weapons had a meeting at the Lithuanian Embassy. It was a very fruitful meeting and the Technology Board will continue to address issues on sea dumped weapons.

It is my pleasure to be invited to talk about the obligation of the OPCW and its States Parties to recover and destroy chemical weapons dumped in water. First, I shall introduce a few technical terms used in the Chemical Weapons Convention that seems applicable to this analysis, thereafter I will use certain provisions to elaborate on the obligation to recover and destroy sea-dumped chemical weapons.

I identified the following terms in the Convention, and considering this is the end of your third day, I shall not go into details on the definitions of:

- Chemical Weapons;
- Old Chemical Weapons; and
- Abandoned Chemical Weapons.

The term jurisdiction as mentioned in the Convention shall be interpreted in accordance with international law, i.e. territorial jurisdiction, including internal waters, and the jurisdiction in accordance with the law of the sea.

This means that the areas that remain uncovered in the Convention are the chemical weapons before 1925, and those that are dumped, especially in the high seas.

In the Verification Annex, Part 4, section C, it is specifically stated that dumping in any body of water may not be used as a method for destruction of chemical weapons. However, this provision is weakened by Art. 4, paragraph 17 of the Convention, stating that it shall not apply to the weapons dumped at sea before 1 January 1985. That basically covers all those sunk after WWII, which covers most sea-dumped weapons. For example, the Potsdam Agreement, Chapter 4, gives an idea of what the Allied Nations agreed to do with the German Navy.

Luckily for the achievement of common objectives, the OPCW's website recognised the protection of human health and preservation of the environment as one of the primary obligations for all States Parties. It stated that the deterioration of chemical weapons that have been dumped at sea prior to 1985 contaminates the water. In light of this, "although the Convention does not apply to such munitions, this environmental concern may require the recovery and

disposal of such munitions.” The experts amongst us can obviously detect the weak language used in this formulation, so here is some work to be done.

This statement on the OPCW’s website is in line with Art. 7(3) the Convention, which assigned States Parties with the highest priority to ensuring the safety of people and to protecting the environment in implementing its obligations, and called the SP to cooperate in this regard.

What was not mentioned is that there is also a security concern when these chemical weapons are not recovered and properly destroyed. For example, the risk of explosions, such as the recent one that took place near the Canadian coast, and if they fall into wrong hands, such as those of terrorists who are becoming more resourceful by the day.

In addition to SP obligation, the OPCW may recommend collective measures to redress this situation and to cooperate with the United Nations General Assembly and the Security Council on addressing this situation that is a serious damage to the object and purpose of this Convention, which in accordance with the Preamble, includes the elimination of all types of weapons of mass destruction as well as the complete and effective prohibition and destruction of chemical weapons. These are considered necessary steps to achieve the common objectives. As a matter of fact, in 2003, the Canadian Senate decided unanimously that the Government should immediately call the United Nations for a conference with all coastal states. Sadly, to this day, this has not yet taken place.

In addition to the Preamble, Article 1 paragraphs 2 and 3 to underline the general obligation of SP to destroy all chemical weapons it owns or possesses, under its jurisdiction or control, as well as those abandoned on the territory of another SP. This includes the jurisdiction of coastal states. The only missing element is those that are “dumped,” especially when they are dumped at high seas, which is not owned by any State.

Consequently I would like to propose that the OPCW adopt an additional annex to include the obligation to recover and destroy sea-dumped chemical weapons, and to cooperate with the International Dialogue on Underwater Munitions in adopting a treaty on the regulation of prevention, recovering and destruction of all sea-dumped weapons, and include your official support for our technical and legal projects in your budget. These projects involve a repository with the locations of all munitions-sites in addition to our continued technical research on cleaning up underwater chemical weapons in a sustainable and safe way, and the amount of legal work required to get things done.

IDUM has not officially announced it yet, but we are having a Young Scientists Summer School on Sea Dumped Chemical Weapons in Halifax, Nova Scotia, and I would like to invite every State Party to send your young scientist to cooperate on a global scale.

Such support is in line with the provisions on “Assistance and Protection against Chemical Weapons” as well as “Economic and Technological Development.”

I would like to thank you for listening to this short presentation, which due to limited resources, is pro bono work. Therefore, I would like to end my presentation by calling for your much needed support in the continuation of our work towards clean and safe water.

I want to thank Mr Terrance Long for giving me this opportunity to call upon States Parties to safeguard the world for succeeding generations, a world where the conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.