



OPCW

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THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

**ARTICLE IX OF THE CHEMICAL WEAPONS CONVENTION:
ASPECTS OF COMPLIANCE**

1. Introduction

- 1.1 The Chemical Weapons Convention (hereinafter “the Convention”) has been established as a vital instrument for global security and disarmament. Since the Convention entered into force in April 1997, enormous progress has been made in implementation. There are now 151 States Parties. The Technical Secretariat (hereinafter “the Secretariat”) has carried out routine inspections of relevant military and industrial facilities world-wide. A good overall start has been made to destruction of declared chemical weapons (CW) stocks. Destruction or conversion of production facilities has largely been completed. This Review Conference marks the successful completion of the initial phase of establishing the Organisation for the Prohibition of Chemical Weapons (hereinafter “the OPCW”) and implementing the Convention. But **compliance** needs now to be addressed as the central issue for the Convention – unless there is confidence in compliance by all States Parties, the Convention is not only seriously weakened, but becomes dangerous in creating the mere illusion of security.
- 1.2 In order to meet its objectives, the Convention includes a range of verification and transparency measures. However, the verification measures can only be truly effective if they are accompanied by a high level of transparency. States Parties must not only **be** in compliance with the Convention, but must be **transparently** compliant. In order for any State Party to be confident that membership of the Convention enhances its security and that the burdens it has accepted under the Convention are fair, it must also have a high level of confidence that all other States Parties are fully complying with their obligations.
- 1.3 The Secretariat performs an essential role in conducting verification, and in receiving and analysing declarations and notifications from States Parties. The Verification Implementation Report (hereinafter “the VIR”) performs an increasingly valuable role in providing transparency to States Parties of the overall status of verification of the Convention. But it is **not** the responsibility of the Secretariat alone to address issues of compliance. **Every** State Party has the responsibility to raise concerns about compliance with the Convention, and Article IX provides a number of mechanisms



for doing so. This paper sets out the relevance of some of the provisions of Article IX of the Convention to issues of compliance, taking into account the declaration obligations of States Parties. It does not address in detail the issue of challenge inspections, since this is contemplated by the European Union in a separate paper.

2. Declarations and notifications

- 2.1 One of the key obligations of all States Parties is to make the range of declaration and notifications required under the Convention. Some of these are routine, but essential for the effective and even implementation of the Convention, such as notification of points of entry, of National Authorities, and of standing diplomatic clearance for flights. It is therefore of concern that the Verification Implementation Report (EC-30/HP/DG.1, dated 4 July 2002) makes clear that many States Parties have not even met such elementary obligations. Other declaration obligations are more substantial and more important for the effective implementation of the Convention, and for States Parties' confidence in it; for example, the adoption of national implementation measures, including penal legislation, under Article VII of the Convention, and notification of them to the OPCW. It is therefore of much greater concern that the VIR continues to show that many States Parties have not met these essential obligations.
- 2.2 Just as the most fundamental obligations under the Convention are those relating to Article I, so the most important declarations are those which are concerned with such matters as the past development, production and use of chemical weapons, and the potential capabilities - which may be inherent in some industrial and other facilities - for producing chemical weapons in future. It is in these areas that compliance and transparency are most vital, so that States Parties can have confidence that membership of the Convention enhances their security. The United Kingdom considers that the timely and accurate submission of these declarations is of the utmost importance.
- 2.3 These key declarations include CW stocks; CW production and transfers since 1946; CW production facilities; Schedule 1 facilities; current production (and, in some cases, consumption and processing) of Scheduled Chemicals (which include CW agents and precursors) and of Discrete Organic Chemicals; and statements of national programmes related to protective purposes. States Parties thus provide a very substantial amount of relevant and often detailed information on their former CW programmes and current facilities relevant to the Convention. This information is available to all States Parties, on request. The United Kingdom considers it essential for States Parties to review carefully other States Parties' declarations, in order to ensure appropriate transparency, identify possible non-compliance, omissions or ambiguities and, where appropriate, take steps to encourage the State Party concerned to remedy the situation.
- 2.4 The United Kingdom's experience is that detailed review of States' declarations, informed by other relevant information, including published information, may indicate possible anomalies, omissions or ambiguities. For example, a State Party may have declared former production of a quantity of CW agent that does not match with the quantities it declared it had weaponised; or information may be lacking about the destruction of agent declared to have been produced; a state known to have a

national programme related to protective purposes may not have declared either the programme or the Schedule 1 facility that supports it; or former transfers of CW may be declared by the recipient but not by the supplier. In all these cases, the nature of the information which is missing gives cause for potential concerns about compliance and transparency.

3. Article IX Consultations

- 3.1 Article IX of the Convention provides that “States Parties shall consult and co-operate, directly among themselves, or through the Organization on any matter which may be raised relating to the object and purpose, or the implementation of the provisions of this Convention” (paragraph 1). Article IX encourages States Parties, wherever possible, to “make every effort to clarify and resolve, through exchanges of information and consultations among themselves, any matter which may cause doubt about compliance with this Convention, or which gives rise to concerns about a related matter which may be considered ambiguous” (paragraph 2). A timescale of 10 days is provided for response to a request for formal clarification received directly from another State Party. Provision is also made for States Parties to arrange by mutual consent for “inspections or any other procedures among themselves”.
- 3.2 The United Kingdom and a number of other states have made use of such provisions. The United Kingdom has passed written questions to several States Parties seeking clarification of possible omissions and anomalies in their Declarations, or of other issues of potential concern. We have received responses generally in writing, and in most cases have held bilateral follow-up discussions on one or more occasions. In some cases we have been able to resolve our concerns. In some, we have recognised that complete assurance is not possible, because accurate information about past activities is no longer available. Some States Parties have invited us to visit a specific facility in relation to which we have sought clarification. In some instances, the State Party has submitted a revised declaration to clarify an omission or ambiguity. In other cases, dialogue is continuing. In all these cases to date, we have sought to follow an informal, bilateral and confidential approach, rather than formally invoking Article IX of the Convention, which requires a response within 10 days. In some cases, the very openness of a State Party and its willingness to engage in dialogue and demonstrate transparency have in themselves helped to address our concerns.
- 3.3 The United Kingdom aims to seek consultations on significant compliance issues wherever we identify them. Our aim is to clarify the concern and, wherever appropriate, to encourage states to amend their declarations so as to provide the full transparency that the Convention requires. If a State Party refused to cooperate in providing appropriate transparency, we might pursue a more formal bilateral approach, or even request the Executive Council to obtain clarification, as provided for under Article IX, paragraph 4. Ultimately, we might conclude that requesting a challenge inspection might be necessary if, for example, the State Party were not willing to provide appropriate transparency and reassurance, or if our concerns were such that prior consultation was not appropriate.

- 3.4 We believe it is essential for all States Parties to make use of the Article IX consultation procedures. This process will encourage accuracy and completeness of declarations, deter cheating, and enhance the effectiveness of the Convention. For its part, the United Kingdom has received requests for clarification from a number of States Parties regarding such matters as conversion and destruction of former CW production facilities in the United Kingdom. We welcome such opportunities to demonstrate the United Kingdom's commitment to the transparency that we expect from others, and remain open at all times to any such dialogue or consultations that may be requested.
- 3.5 But consultations are not appropriate in relation to every concern about non-compliance. Nor are they mandatory in all cases [see EU paper]. In any particular case, the United Kingdom would not wait for prior consultations if concerns were serious and urgent enough to warrant an immediate challenge inspection.

4. Summary

The United Kingdom believes that compliance and transparency are at the heart of the Convention. Ensuring compliance is the responsibility of **every** State Party that wishes to use the Convention to enhance its national security. The United Kingdom believes that the Review Conference should:

- (a) urge all States Parties to meet their declaration and notification obligations promptly and completely; and
- (b) encourage States Parties to make full use of the consultation, co-operation and clarification provisions of Article IX of the Convention, so as to encourage all States Parties to be in full compliance and provide appropriate transparency.