



**REPORT BY H.E. AMBASSADOR MARÍA TERESA INFANTE
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OF THE OPEN-ENDED WORKING GROUP ON TERRORISM**

**SUMMARY OF INTERSESSIONAL WORK
(7 March to 23 June 2017)**

INTRODUCTION ¹

1. As Facilitator of the Sub-Working Group on Non-State Actors (SWG), I have summarised the progress made, and my views on the work done since my previous report (EC-84/WP.1, dated 28 February 2017). As usual, I intend to table my current report at the 10 July 2017 meeting of the Open-Ended Working Group on Terrorism (OEWG-T).
2. I would like to express my appreciation to States Parties for their continued focus and engagement on the SWG's issues.

GENERAL OPERATION

3. The activities summarised herein relate to (i) the SWG meeting held on 7 June 2017 ² as it focused on the area of customs security and a proposed Programme of Work for the OEWG-T and its SWG, and (ii) my participation at the International Conference on Chemical Disarmament and Security, held in Qatar in April 2017, and the regional meeting of OPCW National Authorities held in Jamaica in June 2017.

PROGRESS AND STATUS OF WORK

Customs Security (SWG Meeting held on 7 June 2017)

Background

4. Some of the world's largest marine ports in terms of volume of traded goods are operated in Singapore and Panama, and they kindly offered to share with the SWG their experiences and challenges with detecting illicit trade and ensuring the port itself is safe

¹ For a detailed history and background of the Sub-Working Group on non-State actors and its relationship with the Executive Council's Open-Ended Working Group on Terrorism, see my earlier intersessional report (EC-81/WP.1, dated 22 February 2016).

² As a practical measure, a summary of the 7 June 2017 SWG meeting has been integrated into this intersessional report, and a separate meeting summary will not be issued.



and secure. Representatives from Singapore included Mr Ng, Commander Ports, and Mr Ansary, Project Officer, both from the Immigration and Checkpoints Authority; and, Ms May Ong Bee Leng, Director (Unconventional Threats), Office of the Chief Science and Technology Officer, Ministry of Home Affairs. The representative from Panama was H.E. Mr Willys Delvalle, Permanent Representative of the Republic of Panama to the OPCW.

5. As the Technical Secretariat (hereinafter “the Secretariat”) has been assisting States Parties with implementing their obligations for the transfer of scheduled chemicals under the Chemical Weapons Convention (hereinafter “the Convention”), and building their capacity in the area of customs, Mr Byalyk, a Senior Coordination and Planning Officer in the International Cooperation and Assistance Division, provided a short presentation of the key activities in this regard. I note that the presentation may serve as a baseline when considering what more the OPCW could do to help States Parties establish an effective customs security regime.
6. The Director-General's opening remarks at the 7 June 2017 SWG meeting and the presentations from Singapore, Panama, and the Secretariat are available on the OPCW extranet.

Key Points from the Presentations and SWG's Exchange of Views

7. **Role of Customs:** Singapore and Panama highlighted that the role of customs continues to evolve from being one primarily of economic interest to one that is important to national and global security. With regard to illustrating the latter in practical terms, a few delegates noted that acts of terrorism, using material imported into a State Party, would not discriminate between nationals and foreigners; and, that trans-shipments provide an opportunity for illicit trade to be detected by a State Party before it proceeds to its final destination in another State Party. I have also been made aware that the World Customs Organization's (WCO) Policy Commission issued a resolution in 2015 regarding the role of customs in the current security context.³ This, I expect, will continue to provide impetus to evolve the role of customs around the world.
8. **Differentiated Approaches:** In response to interventions from the Director-General and a few delegates regarding minimum capacities for customs authorities, either for a small or medium sized State Party or for a developing economy:
 - (a) Singapore noted that their capacity to detect illicit trade evolved over time. In particular, the ongoing need to balance the facilitation of efficient trade with effective security based on the increasing volume of trade and the security threat. They noted that with a low volume of trade and a low threat, perhaps manual checks might be enough. However, as trade volume increases, and with greater sophistication of illicit trade practices, they had to rely on leveraging science and technology to achieve the right balance. This includes looking at advanced scanning technologies, greater reliance on intelligence information and data analytics, improving laboratory capabilities including

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“Punta Cana Resolution of the Policy Commission of the World Customs Organization on the Role of Customs in the Security Context (Punta Cana, December 2015)”

having dedicated on-site customs laboratories for timely in-situ analysis, and also having better trained customs officers.

- (b) The Secretariat, in responding to a delegate's intervention, noted that it had held customs laboratory courses between 2011 and 2015 for States Parties that do not yet have sufficiently skilled or equipped customs laboratories. The course is currently being reassessed to ensure the curriculum is efficient and effective, and whether there are other international organisations, such as the WCO, with which cooperation in this regard makes sense.

9. Opportunities to learn and share:

- (a) Singapore noted their participation in a number of regional activities, including hosting other States Parties within and outside their region to learn and share. It is to be noted that the learn and share modality can occur between States Parties with similar capacity, and could also occur between States Parties whose customs regimes are at different stages of development.
- (b) As noted by the Director-General in his opening remarks, the Secretariat had arranged a short technical programme for the visiting delegation from Singapore. This programme was based on a learn and share modality that brings together individuals who conduct similar job functions in their respective State Party to exchange technical experience. The representatives of Singapore had such a “peer” exchange with their counterparts at the Netherlands' port of Rotterdam.
- (c) The Secretariat, in responding to a delegate's question, noted that their Train the Trainer (ToT) programme for customs institutions includes following-up on a regular basis. For example, for courses delivered around this time of year, there would be a follow-up before the Annual Meeting of the National Authorities at the end of the year. This would include obtaining information on what they have achieved in terms of how many courses their trainers have delivered, what were the challenges they encountered, etc. A workshop format is also used for them to share their lessons learned and experiences with other customs training institutes.

10. Multi-Agency Approach: Singapore has placed particular attention to ensure that its national agencies have an integrated approach to matters pertaining to national safety and security, e.g. customs and border control. Key stakeholders, notably termed “The Home Team”, include the police, central narcotics bureau, immigration, civil defence, etc. Examples of this integrated approach include: operational command and control structures that unify relevant agencies; sharing information such as shipping declarations (import and export) amongst “The Home Team” through a common system so any agency could trigger a search; multi-agency committees to discuss and address security issues at the port; joint training of “The Home Team” officers, etc. As Singapore and Panama are signatory to large number of international and regional conventions, they reminded us that their obligations also span a wide range of subjects, such as maritime law, pesticides, hazardous materials, etc. Therefore, the benefits of having a multi-agency approach are obvious.

11. **Multi-Threat Approach:** Singapore and Panama also reminded us that they must address the threat posed by the illicit trade and misuse of any chemical, biological, radiological, nuclear, and explosive (CBRNE) material. Their customs officers, their laboratories, and any other supporting infrastructure, must therefore be well-trained, equipped, and capable of detecting threats across the whole spectrum of material, either individually or in combination.

12. **International and Regional Cooperation:**
 - (a) As all shipments cannot be searched, Singapore and Panama highlighted the importance of exchanging intelligence information about possible illicit trade, and the value that bi-lateral, regional, and international cooperation has in this regard. Such cooperation is important for identifying searches of trans-shipments, even though such cargo may be in a free-trade zone and held temporarily en route to another State Party.

 - (b) The Secretariat, in responding to a delegate's intervention, noted that the memorandum of understanding that the OPCW signed with the WCO earlier this year is expected to deepen cooperation beyond its current activities. The Secretariat noted it will meet the WCO focal point soon to discuss such cooperation, and then it needs to be agreed upon by the respective senior management. Any expanded cooperation would consider the needs of States Parties, and available resources of both the Secretariats of the OPCW and the WCO.

13. **Safety and Security of Ports:** The presentation from Panama was very comprehensive, and the following points are noted:
 - (a) The extent to which States Parties rely on, and are interconnected through, maritime trade was evident. Much like the role of customs, in addition to serving national interests, the safety and security of ports also has a global dimension.

 - (b) The port itself is a strategic point in the overall supply chain as it facilitates efficient trade, particularly as that trade continues to increase year after year. With a full range of different types of goods and materials legitimately traded through the port, some being toxic and hazardous, the safety and security of the port itself is key. This, perhaps, has good correlation with the topics of chemical security and prevention measures, and also ensuring an effective response to a chemical incident.

 - (c) I note the mention of the Maritime Protection Regime as set out in the International Convention for the Safety of Life at Sea, and its International Ship and Port Facility Security (ISPS) Code. There might be other international stakeholders (e.g. the International Maritime Organisation) and other regimes, with which the Organisation has not had cause to engage in the context of disarmament, and that might be useful to explore in the context of the Convention and threat of chemical terrorism.

Outcomes

14. From my viewpoint, the following outcomes were realised, and steps could be taken to make further progress:
 - (a) With recognition of the evolving role of customs, particularly in light of the WCO's recent resolution as mentioned in paragraph 7, it is perhaps a good time for us to review OPCW's role in customs security starting with, as noted by the Secretariat, identifying the aspects of greater cooperation with the WCO in the context of the recently signed memorandum of understanding.
 - (b) Keeping in mind the concept of having common objectives with differentiated approaches, it would be useful if States Parties and the Secretariat considered what more could be done, including developing new modalities, to support customs authorities across the whole range of capacities that exist in OPCW States Parties. Perhaps starting with some guidance of what constitutes a basic capacity to detect chemicals in terms of equipment, methods, and trained officers. Along these lines, I note that the Secretariat is reassessing the efficiency and effectiveness of customs laboratory training.
 - (c) Considering all the aspects presented by Panama on the safety and security of their ports, it seems like discussions could continue under the topic of chemical security, and the topic of ensuring an effective response, as they both appear in the provisional Programme of Work for the OEWG-T/SWG.

Programme of Work for the OEWG-T and its SWG (SWG Meeting held on 7 June 2017)

Background

15. During the SWG meetings held throughout 2016, a number of delegations had noted the importance of the OPCW States Parties having common objectives that are achieved by differentiated approaches depending on, among other things, a State Party's capacity. As mentioned in my previous intersessional report (EC-84/WP.1), I had begun informal consultations with States Parties to better understand their issues of priority and to align the SWG discussions in that regard. Ultimately, with the aim to have concrete activities that meet States Parties' needs.
16. It is also worth noting that the aforementioned consultations was a first attempt to articulate States Parties' issues into a coherent work programme for the OEWG-T and its SWG. Later this year, along with Ambassador Diop as Chairperson of the OEWG-T, we would like to have another round of consultations to ensure all issues are identified and addressed in either the OEWG-T or the SWG. I am pleased that this approach is also consistent with the suggestion I received from a few delegations that such consultations occur on a regular basis.
17. Based on the input received during the consultations, a proposed Programme of Work covering 12 months (July 2017 to June 2018) was drafted as a non-paper, and distributed by the Secretariat on my behalf to States Parties on 23 May 2017. This non-paper was accompanied by the provisional agenda for the 7 June 2017 SWG meeting, which had a specific agenda item under which it would be discussed.

Key Points from the SWG's Exchange of Views

18. For clarification, the topic in the proposed Programme of Work related to supporting States Parties' efforts to engage their own chemical industry in the context of national implementation (i.e. 2nd topic under the 4th Quarter) does not refer to inspections or inspectors under the OPCW verification regime, but rather to the Secretariat's cooperation programmes that could help build capacity within States Parties' domestic security measures.
19. I am pleased that States Parties continue to offer to share their national experience. Especially, within the important area of legal accountability of non-State actors and in regard to specific situations. For instance, as the Netherlands has offered to share, at the 10 July 2017 OEWG-T meeting, their experience with the international legal cooperation that is needed to prosecute returning foreign terrorist fighters, and with the interplay of the Convention and other legal instruments. Recognising that States Parties have different domestic legal systems, I wanted to emphasise that the idea is not to impose specific approaches, but rather see if there are common areas or practices that we can draw upon that could benefit national implementation. In this regard, I note a delegate's suggestion that it might be useful to hear how States Parties have defined non-State actors and acts of terrorism, especially from those that already have national legislation required by Article VII.
20. With regard to the topic of the OEWG-T's contribution to the OEWG on Future Priorities and to the Fourth Review Conference (1st topic under 4th Quarter), I understand that both Co-Chairpersons of the Future Priorities group have requested the support of the OEWG-T and its SWG in order to provide input to the Future Priorities group's broad discussions. As the OEWG-T and SWG have already acknowledged some issues as being important, it is a matter of articulating these issues and any other issues that we deem important in a form that the Future Priorities group can use for their discussions.

Outcomes

21. As noted in paragraph 18 in relation to helping to build the capacity of States Parties' domestic security measures as part of national implementation, an updated provisional Programme of Work is included as Annex 1. Also, as my previous inter-sessional report included a list of the issues that formed the basis for the programme, I reproduced this list as Annex 2 to help States Parties relate the Programme of Work with those issues.
22. In the informal consultations, a few delegates had mentioned "customs" as an issue to be discussed, and I am pleased that the SWG began to exchange views on this important topic. Certainly, it is an issue not to be resolved in one meeting, but I believe it provided a basis for States Parties and the Secretariat to continue looking at how the OPCW can further support States Parties in establishing an effective customs regime.

Regional Meeting of the National Authorities

23. I had the privilege to participate in two OPCW related events within the intersessional period. Firstly, at the "International Conference on Chemical Disarmament and

Security: The OPCW's Contributions to Global Peace and Security", held in Doha, Qatar on 10 to 11 April 2017. Secondly, at the "18th Regional Meeting of National Authorities of States Parties in Latin America & the Caribbean", held in Montego Bay, Jamaica, on 13 to 15 June 2017.

24. At both the aforementioned events, I provided the context for, and background of, the SWG and gave an overview of its work so far. I believe the SWG's efforts were well received by participants, and there were positive views expressed on our general aims and progress to date.

Outcomes

25. With regard to the regional meeting of National Authorities, I noted a general sense of willingness for greater cooperation with the Organization of American States (OAS), as we share a number of areas of common interest and importance. One of which is national legislation adopted as a result of their regional treaties and obligations, and of other international obligations, such as the Convention.

Annexes:

- Annex 1: Proposed Programme of Work for the Open-Ended Working Group on Terrorism and its Sub-Working Group on Non-State Actors for the Period July 2017 to June 2018
- Annex 2: Summary of Discussions with States Parties (as at 28 February 2017)

Annex 1

PROVISIONAL PROGRAMME OF WORK FOR THE OPEN-ENDED WORKING GROUP ON TERRORISM AND ITS SUB-WORKING GROUP ON NON-STATE ACTORS FOR THE PERIOD JULY 2017 TO JUNE 2018

1. The Chairperson of the Open-Ended Working Group on Terrorism, H. E. Mr Momar Diop, Permanent Representative of the Republic of Senegal to the OPCW, and the Facilitator of its Sub-Working Group on Non-State Actors, H. E. Mrs María Teresa Infante, Permanent Representative of the Republic of Chile to the OPCW, would like to propose a tentative programme of work, and indicative topics to be covered by both groups over the next 12 months.
2. The objective of the programme of work is to sensitise States Parties on key issues within the three topical areas of legal accountability of non-State actors, measures to prevent the hostile use of toxic chemicals, and measures to ensure an effective response to such use. By highlighting these key issues, the Chairpersons wish to foster productive discussions amongst States Parties on how the OPCW can further contribute to States Parties' efforts in addressing the threat of chemical terrorism.
3. The programme is based on Ambassador Infante's informal discussions with States Parties who have kindly made themselves available in either a regional format or as an individual State Party. As noted in Ambassador Infante's latest working paper summarising the SWG's intersessional work⁴, such discussions were held to better align the SWG's agenda with States Parties' issues of priority taking also into account what the OPCW is already doing to contribute to global anti-terrorism efforts.⁵
4. As a means to provide States Parties the opportunity to prepare ideas and views, and to identify subject matter experts whose technical perspective or experience could help foster productive discussions, the programme contains indicative agenda topics and their timing.
5. In setting a programme that States Parties could find informative for their purposes in the short term, yet flexible and responsive over a 12 month period, it is proposed that the programme itself be informed by the Chairpersons' informal discussions with States Parties, which could occur once or twice per year – particularly as, during Ambassador Infante's informal discussions so far, several delegates expressed interest in repeating such discussions on a regular basis.
6. Therefore, it is proposed that the Chairpersons jointly conduct their informal discussions in September 2017, and, if need be, again approximately six months later (i.e. in March 2018). If States Parties deem the informal discussions and the

⁴ Report by H.E. Ambassador María Teresa Infante, Facilitator of the Sub-Working Group on Non-State Actors of the Open-ended Working Group on Terrorism, "Summary of Intersessional Work (8 October 2016 to 28 February 2017)," EC-84/WP.1

⁵ The Director-General's annual note on "The Status of OPCW's Contribution to Global Anti-Terrorism Efforts," EC-84/DG.14, dated 8 February 2017.

subsequent re-issuance of a tentative work programme useful, then this can become a regular practice.

7. Indicative List of Topics for 2017 by Quarter:

3rd Quarter (July – September 2017)

- (a) the use of international legal cooperation to prosecute foreign terrorist fighters (10 July 2017 - OEWG-T);
- (b) the Secretariat's support to States Parties that currently have, or have not yet, adopted legislation under Article VII (10 July 2017 - OEWG-T);
- (c) regional and sub-regional cooperation to build capacity through the OPCW "Africa Programme" (September 2017);

4th Quarter (October – December 2017)

- (d) the OEWG-T's proposed contribution to the seventh segment of the OEWG-Future Priorities (i.e. on "all other issues"), and to the Fourth Review Conference (9 October 2017 - OEWG-T);
- (e) support to States Parties' efforts to engage their own chemical industry in the context of national implementation. For instance, building capacity for domestic chemical security measures;
- (f) impact of evolving science and technology to the SWG topical areas. For instance, use of investigative techniques such as forensics, medical counter-measures, etc.; and
- (g) the evolution of the OPCW's chemical safety and security management programme, including a review of the Secretariat's current activities in the area of prevention.

8. Indicative List of Topics for 2018:

(January – June 2018)

- (a) review of partnerships with other international or (sub) regional organisations;
- (b) capacity building of States Parties' response efforts in terms of human resources and scientific/analytical capability, including a review of the Secretariat's current capacity building activities in the area of response;
- (c) progress of the United Nations Counter-Terrorism Implementation Task Force project;
- (d) review of experience with the 1540 Committee under United Nations Security Council Resolution 2325 (2016); and
- (e) support to States Parties' measures to control and manage chemical exports.

Annex 2

**SUMMARY OF DISCUSSIONS WITH STATES PARTIES
(AS AT 28 FEBRUARY 2017)**

(Reproduced from the previous intersessional report, EC-84/WP.1)

SWG Topical Area⁶	Issue/Question
Legal Accountability	<p>How to improve States Parties awareness of the CWC, and its importance in addressing the risks of chemical terrorism? (Especially in those States Parties where adoption is not a priority, or that may have other national agencies with competing interests).</p> <p>How can the Influential Visitor’s programme be expanded to include States Parties that are not yet in the advanced stages of adoption?</p> <p>Guidance or advice on how to prepare more “precise” national legislation that would help target misuse of toxic chemicals through monitoring and controls.</p> <p>What more could the Secretariat do to foster adoption of national legislation under Article VII in a specific State Party?</p> <p>States Parties’ legal cases could be very informative for other delegations, regardless of whether national legislation under Article VII has been adopted or not (i.e. focusing on what is needed to successfully prosecute individuals who have committed CWC prohibited activities).</p> <p>Debate about the definition of terms such as “non-State actor” and “terrorism” should not deter the application of the CWC by States Parties. States may like to use the terms in a more precise or exact way, but a common understanding of those conducts by actors which do not represent the State itself, may be generally acknowledged as non-State actor conduct.</p>
Prevention	<p>Training of domestic industry inspectors to improve their capacity with the aim to help the State Party build confidence in its own industry. What are other proposals for capacity building that would improve States Parties’ efforts in the prevention area?</p> <p>Partnerships with regional organisations, such as with the African Union, and in particular, the Africa Center for the Study and Research on Terrorism and its 43 focal points, as well as the Organization of American States should be explored.</p> <p>Customs and export controls, especially for those States Parties considered to be “transit” countries in the movements of chemicals.</p>

⁶ As set-out by the framework of topical discussion papers issued by the Secretariat in 2015, namely: “The Chemical Weapons Convention and Accountability of Non-State Actors – Discussion Paper,” (S/1254/2015, dated 9 March 2015); “Measures to Prevent Hostile Use of Toxic Chemicals by Non-State Actors - Discussion Paper,” (S/1291/2015, dated 26 June 2015); “Ensuring an Effective Response to the Hostile Use of a Toxic Chemical – Discussion Paper” (S/1325/2015, dated 6 November 2015)

SWG Topical Area⁶	Issue/Question
Response	<p>Investigative techniques, including forensics.</p> <p>Capacity building and training of first responders, and scientific capacity (e.g. national and/or regional laboratories, and their ability to identify agents).</p> <p>What more could the Secretariat do to help support the conduct of table-top exercises at the national and regional level?</p> <p>Obtain a better understanding of what type of assistance States Parties need following a chemical incident; what type of capacities does the OPCW need in this regard? What would be the mechanisms for funding?</p>
General	<p>How to improve inter-agency links within a State Party?</p> <p>Review the Secretariat's activities during the last few years as a way to think about future capabilities that might be needed.</p> <p>Periodically reinforce/reiterate the scope and nature of all the activities already being conducted by the Secretariat (i.e. those outlined in the Director-General's annual note on the status of OPCW's contribution to global anti-terrorism efforts).</p> <p>What are the opportunities for the OPCW to build upon in terms of cooperation with the 1540 Committee, noting that the 1540 Committee also faces the challenge of ensuring national implementation, and the recently adopted United Nations Security Council Resolution 2325 (2016)? .</p> <p>The sub-regional context is also important to consider as it may yield its own needs that are different, or more amplified, than the region it resides within.</p> <p>In 2017, there should be more focus on prevention and response.</p> <p>A tailor-made programme might be needed to assist each State Party or region with CWC implementation.</p>