



DECISION

**ADDRESSING THE THREAT POSED BY THE USE OF CHEMICAL WEAPONS
BY NON-STATE ACTORS**

The Executive Council,

Determined for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons, through the implementation of the provisions of the Chemical Weapons Convention (hereinafter “the Convention”);

Recalling that at its Third Review Conference,¹ the States Parties to the Convention expressed their determination to increase their efforts to guard against the possible hostile use of toxic chemicals by non-State actors, such as terrorists, and welcomed the measures taken by the Technical Secretariat (hereinafter “the Secretariat”) to strengthen its ability to respond promptly to requests for assistance made under Article X of the Convention and to investigate the alleged use of chemical weapons related to the actions or activities of non-State actors, including terrorists;

Further recalling that in Ieper, Belgium, on 21 April 2015, States Parties to the Convention reaffirmed “their condemnation, in the strongest possible terms, of the use of chemical weapons anywhere, at any time, by anyone, under any circumstances,” expressed their “strong conviction that those responsible for the use of chemical weapons should be held accountable,” and underscored “their commitment to ensuring that non-State actors do not obtain chemical weapons or their means of delivery”;

Underscoring that the development, production, acquisition, possession, stockpiling, retention, transfer, and use of chemical weapons by non-State actors poses a fundamental threat to the object and purpose of the Convention and to the achievement of a world free of chemical weapons, and that any actor who engages in or attempts to engage in such activities must be held accountable;

Recognising that the full and effective implementation of all provisions of the Convention contributes to addressing the use of chemical weapons by non-State actors;

¹ The Third Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention.



Recalling the obligation of each State Party under paragraph 1 of Article VII of the Convention to:

- (a) Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognised by international law from undertaking any activity prohibited to a State Party under this Convention, including enacting penal legislation with respect to such activity;
- (b) Not permit in any place under its control any activity prohibited to a State Party under this Convention; and
- (c) Extend its penal legislation enacted under subparagraph (a) to any activity prohibited to a State Party under this Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law;

Further recalling the obligation of each State Party under paragraph 2 of Article VII of the Convention to “cooperate with other States Parties and afford the appropriate form of legal assistance to facilitate the implementation of the obligations under paragraph 1 [of Article VII]”;

Noting the obligation of each State Party under paragraph 2 of Article VI of the Convention to “adopt the necessary measures to ensure that toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used within its territory or in any other place under its jurisdiction or control” for purposes not prohibited by the Convention;

Expressing concern with the continued interest in the development, acquisition, and use of chemical weapons by non-State actors and the potential for this threat to increase over time;

Commending the ongoing work of the Sub-Working Group on Non-State Actors under the Open-Ended Working Group on Terrorism;

Noting the need to continue to enhance the Secretariat’s capacity and readiness, in response to alleged incidents of chemical weapons use, to provide technical assistance, to deploy emergency measures of assistance under Article X of the Convention at the request of a State Party, and to enhance the Secretariat’s readiness to conduct investigations of alleged use under Article IX and Article X of the Convention and Part XI of the Verification Annex to the Convention;

Hereby:

1. **Underscores** the role of the Organisation within its mandate with respect to preventing and responding to the threat posed by the use of chemical weapons by non-State actors to the object and purpose of the Convention;
2. **Emphasises** that any use of chemical weapons anywhere, at any time, by anyone, under any circumstances, is unacceptable and contravenes international standards and norms against such use;
3. **Reaffirms** its strong conviction that those responsible for the use of chemical weapons must be held accountable;

4. **Underscores** the obligation of each State Party under paragraph 2 of Article VI of the Convention to “adopt the necessary measures to ensure that toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used” for purposes not prohibited under the Convention;
5. **Expresses the fundamental importance** of full and effective implementation by each State Party of the obligations contained in paragraphs 1 and 2 of Article VII of the Convention, including with respect to addressing the threat posed by the use of chemical weapons by non-State actors, and **reaffirms** the need for all State Parties to prohibit, through national legislation, natural and legal persons anywhere on their territory or in any other place under their jurisdiction as recognised by international law from undertaking any activity prohibited under the Convention, including enacting penal legislation with respect to such activity;
6. **Urges** each State Party that has not yet done so to enact, as required by Article VII of the Convention, comprehensive penal legislation criminalising in particular any activity by natural persons, possessing its nationality, anywhere, in conformity with international law, that is prohibited to a State Party under this Convention, including prohibiting non-State actors from using, developing, producing, otherwise acquiring, stockpiling or retaining chemical weapons, or transferring, directly or indirectly, chemical weapons to anyone, or assisting, encouraging or inducing in any way anyone to engage in any of these activities;
7. **Encourages** States Parties to examine their 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;
8. **Further encourages** States Parties to use any existing mutual legal assistance arrangements to cooperate in investigating incidents involving non-State actors and **requests** States Parties to consider whether additional mutual legal assistance arrangements would be useful in ensuring the accountability of non-State actors;
9. **Fully recognises**, in this regard, the important role of assistance in support of capacity-building to achieve full and effective national implementation;
10. **Requests** the Secretariat to enhance its capacity-building programmes that facilitate the sharing of chemical safety and security best practices among States Parties, on a voluntary basis, to help counter the threat posed by the use of chemical weapons by non-State actors;
11. **Further requests** the Secretariat to examine what types of cooperation and assistance it could provide, within the framework of the Convention and its Confidentiality Annex and the OPCW Policy on Confidentiality, in assisting States Parties in investigating and prosecuting non-State actors for Convention-related crimes, or in countering terrorism as it relates to chemical weapons;
12. **Reaffirms** that Article X of the Convention provides each State Party the right to request and receive assistance and protection against the use or threat of use of chemical weapons, including the use or threat of use of chemical weapons by non-State actors;

13. **Requests** the Director-General to provide technical assistance within the Director-General's mandate, in accordance with the Convention, in connection with the use of chemical weapons by a non-State actor;
14. **Encourages** States Parties to share, according to their national laws and as appropriate, information related to cases of developing, producing, acquiring, stockpiling, retaining, transferring, or using chemical weapons by non-State actors, as well as completed domestic investigations related to chemical weapons, including information on any subsequent criminal or other legal proceedings undertaken;
15. **Reaffirms** that any chemical weapons seized from a non-State actor should be secured, reported, and destroyed in accordance with the relevant provisions of the Convention;
16. **Requests** that the Director-General provide regular updates on the Secretariat's activities to the Executive Council, regarding the implementation of this decision, including in his annual Note on the OPCW's contribution to global anti-terrorism efforts; and
17. **Decides** to remain seized of this matter.

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