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Why Support the OPCW?



Every nation should join this effort to forever eliminate chemical weapons.

The OPCW provides a tangible and time-bound opportunity for the international community to abolish these abhorrent weapons of mass destruction. The OPCW implements the provisions of the

Chemical Weapons Convention (CWC)—a unique multilaterally negotiated disarmament instrument.

Membership in the OPCW benefits each State Party's effort to further the international community's collective efforts to tackle the spread of weapons of mass destruction. The OPCW also provides its Member States assistance in implementing the CWC.

And in that spirit of cooperation, expertise in using chemistry exclusively for peaceful purposes and for protection against chemical weapons is offered so that Member States can benefit by enhancing their national capacities.

On 29 April 2007, the OPCW will be complete ten years in existence. Its record in the implementation of the CWC, in this relatively short time, speaks for itself. Today, the OPCW Member States represent over 98% of the relevant, worldwide chemical industry and about 95% of the global population. However, the quest for universal adherence as well as the full and effective implementation of the Convention by Member States is *sine quo non* for its success in the coming years.

The OPCW offers a forum for effective, multilateral cooperation among Member States to end the scourge of chemical weapons forever and make the world a safer place.

In order for the CWC to be fully implemented, National Authorities and Parliaments need to work together closely to promote a better understanding of the Convention. This booklet endeavours to provide useful information to Parliamentarians who will be involved in the approval of national implementing legislation in order to make the CWC a legally binding instrument at the national level.



OPCW Director-General

Ambassador Rogelio Pfitter

The Chemical Weapons Convention: A model for multilateral, non-discriminatory disarmament

Every country can join the OPCW and contribute towards making chemical weapons permanently a thing of the past. The OPCW is the only multilateral disarmament organisation that is verifying the destruction of an entire category of declared weapons of mass destruction as well as implementing a stringent industry verification regime to achieve the non proliferation objectives of the CWC. It is also the fastest growing disarmament agency in the world, evidence of the Organisation's relevance in securing peace throughout the world.

The CWC is a non-discriminatory treaty, with, all countries being equal in the exercise of their obligations and rights. All Member States have one vote. Consensus, cooperation and transparency are the basis for the OPCW's work. At present, only a few States remain outside the purview of this unique international disarmament instrument. The OPCW continues

making every effort to ensure universal adherence to the CWC. 182 Member States have renounced chemical weapons and have pledged to implement the Chemical Weapons Convention fully and effectively, to bring about a world free of these weapons.

Brief History of Chemical Weapons Use:

Although chemicals had been used as tools of war for centuries, modern chemical warfare has its genesis on the battlefields of World War I. During World War I, chemical weapons – mustard gas, phosgene and chlorine - were used to blind, burn, maim and kill both combatants and civilians, resulting in over 90,000 deaths and over a million casualties during the war.

The 1925 Geneva Convention was first multilateral effort to forbid the use of chemical weapons in warfare. Its prohibition however, could not be verified, nor did its prohibition extend to the use of chemical weapons beyond the battlefield.

Despite the Geneva Convention being in force, chemical weapons stockpiles were maintained by several countries and these stockpiled quantities were enough to kill the entire human population several times over.

The horrific images of the victims in Halabja, Northern Iraq, against whom chemical weapons were used in 1988 shocked the world at the time of the negotiations in Geneva on the Chemical Weapons Convention. The negotiations for the Chemical Weapons Convention were concluded in August 1992 and the Convention opened for signature at a ceremony in Paris in January 1993.

The devastating impact chemical weapons have had in the past, and the potential for the use of modern – even more deadly – chemical agents not only by States Parties at war but in other violent conflicts and by non-State actors, provide the

raison d'être for international efforts to uphold the ban on such weapons and to work towards the complete, global elimination of chemical weapons.

Before the creation of the OPCW on 29 April 1997, there was no dedicated organization to verify the destruction of chemical weapons, coordinate assistance in the event of a threat or use of chemical weapons against any State Party and promote the peaceful uses of chemistry.

Establishing a global ban on chemical weapons

On 29th April 1997, the Chemical Weapons Convention (CWC) entered into force. It is the most comprehensive disarmament non-proliferation treaty ever to be implemented—its jurisdiction extends to military and industrial sites, as well as to each national of every country that joins the CWC. The Chemical Weapons Convention also established the Organisation for the Prohibition of Chemical Weapons (OPCW), an independent, international organisation, to implement the global chemical weapons ban and achieve the object and purpose of the Convention. 182 States have joined

- Under the Convention, the chemical weapons' irreversible destruction and the elimination of any former chemical weapons production capacity is verified on-site. The non-proliferation of these weapons is monitored, as is the international transfer of certain toxic chemicals.
- Obligations under the Convention include:
 - Renounce under any circumstances, the use and production of chemical weapons,
 - Declare chemical weapons-related sites and stockpiles,
 - Declare any relevant industrial activity,
 - Prevent any illicit activity,

- Establish relevant import/export controls over certain dual-use chemicals,
- Establish the internal laws and controls needed to detect a violation,
- Pursue any violation, and
- Prosecute the perpetrators and punish the guilty.

Results

The OPCW is engaged daily in verifying the destruction of chemical weapons, a weapon of mass destruction. The Organisation has conducted over 2,800 inspections have taken place at 200 chemical weapons-related and over 850 industrial sites on the territory of 77 States Parties since 1997

World wide, well over 5000 industrial facilities are liable to inspection.

Twelve countries have declared 65 former chemical weapons production facilities. 100% of these former chemical weapons production facilities have been inactivated. Over 90% of the former chemical weapons factories are certified as destroyed or converted to purposes not prohibited under CWC.

100% of the declared chemical weapons stockpiles have been inventoried and verified.

Under the Convention, six countries have declared chemical weapons: Albania, India, Libya, Russian Federation, United States and an unidentified State Party. In total, over 71,000 metric tons of chemical agent have been declared and secured. The stockpiles are systematically inventoried so as to detect any illicit diversion.

Almost ¼ of the world's declared stockpile of approximately 71,000 metric tonnes of chemical agent have been verifiably destroyed.

Over 30% of the 8.6 million chemical munitions and containers covered by the Convention have also been verifiably destroyed.

National Implementation

The CWC can only effectively prevent the use of chemical weapons and their manufacture when every nation joins this international effort and enacts the legislative and administrative measures that allow every State Party to detect, deter, pursue, prosecute and punish any violation of the ban.

As of 23 March 2007,

- 95% of the States Parties (172/182) have now notified or established their National Authority.
- 41% of the States Parties (75/182) have comprehensive legislation in place.
- 55% of the States Parties (99/182) have provided the Secretariat with the texts of the legislative and/or administrative measures adopted.

How your country benefits from full implementation

While the CWC seeks to ban chemical weapons, it also provides for international cooperation among States Parties in the pursuit of chemistry for peaceful purposes. Member States of the Organisation for the Prohibition of Chemical Weapons (OPCW) enjoy numerous benefits:

1. Legal Assistance: The OPCW is required to provide legal assistance to States Parties. Such assistance includes assistance in the drafting of proper implementing legislation, which incorporates the prohibitions of the CWC into the

national penal code. The national criminalisation of the acquisition or use of chemical weapons helps to ensure that no State Party can become a safe haven for those who violate the Convention.

- Over 100 Member States have submitted draft legislation for expert comment.
- Experts have undertaken over 100 on-site visits to meet relevant ministries, as well as to conduct training courses for the personnel of the National Authority and other stakeholders.
- Member States if requested, can review the legislation of other States Parties (especially within the region), model legislation, as well as an Implementation Kit, containing commentary.
- The Network of Legal Experts was established in November 2003 in The Hague and provides support in drafting legislation.
- At present, 111 members from 74 States Parties and 2 international organisations are active in this cooperative Network.
- Headquarters consultations and regional workshops are also coordinated to facilitate the Convention's national implementation.
- In sum, since 1997, over 3,000 government officials have received training in the establishment and operation of an effective National Authority, charged with enforcing the chemical weapons ban at national level.
- In addition, 111 countries have drawn upon the OPCW's expertise in drafting the national legislation needed to criminalize any breach of the Convention by any national of a State Party that may occur either within or outside the State Parties' territory.

2. International Cooperation: The fostering of international cooperation of the Convention and the promotion of the peaceful uses of chemistry is one of the Convention's mandates. After entry into force of the Convention, the OPCW has initiated a wide range of programmes intended to assist

States Parties in building their technical and scientific capacities in the field of the peaceful use of chemistry.

3. Assistance and Protection against chemical weapons

(Art. X): Each State Party has the right to request and receive assistance and protection against the use or threat of use of chemical weapons. The Secretariat coordinates the delivery of protection, including: detection equipment and alarm systems; protective equipment; decontamination equipment and decontaminants; medical antidotes and treatments; and advice on any of these protective measures.

4. Free Trade: By adhering to the CWC, States Parties may trade Scheduled chemicals with other States Parties to the CWC. States Parties are prohibited from transferring either Schedule 1 or Schedule 2 chemicals to States not party. And, a process of strengthening the restrictions on Schedule 3 chemicals may eventually lead to a ban. Schedule 2 and 3 chemicals have extensive peaceful uses industry, such as in oil refining and the manufacture of cement, paper, and textiles. Free trade in these chemicals is represents a quantifiable, economic benefit of membership.

Parliament and National Implementation

Parliaments can play a crucial role in the implementation of the CWC by considering and approving comprehensive national legislation, thereby allowing the authorities in the Member State to implement the provisions of the Convention fully and effectively. Parliaments also play an important oversight role in ensuring that the provisions of the Convention are implemented at the national level.

How to prevent CW from spreading; how to prevent access to precursors

The full implementation of the Chemical Weapons Convention is an essential requirement for the security of a nation as well as collective international security. Full and effective implementation of the Chemical Weapons Convention enables States Parties to deter and prevent any effort to use chemical weapons to cause human casualties and mass disruptions.

Although, the OPCW is not an anti-terrorism agency, the Convention contains a number of elements that can effectively contribute to the international struggle against chemical terrorism.

The Convention's contribution towards preventing chemical terrorism has also been recognized by the United Nations. In 2004, the United Nations Security Council adopted Resolution 1540, stipulating that States shall refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, or transfer weapons of mass destruction.

Resolution 1540 is a binding obligation for all U.N. Member States, be they OPCW Member States or not, to enact and enforce all the necessary domestic controls to prevent terrorists' access to these weapons or their precursors.

In 2006, the United Nations adopted its Global Counter-Terrorism Strategy. The Global Strategy encourages the OPCW to continue its efforts, within its mandate, to help States build capacity to prevent terrorists from accessing chemical materials, to ensure security at related facilities, and to

respond effectively in the event of an attack using such materials.

The OPCW can contribute its specialised expertise to combat chemical terrorism and make sure that those considering the use of chemical weapons cannot find any safe haven, including terrorists.

The CWC provides a legal foundation for the fight against the proliferation and use of chemical weapons. The Convention is legally binding on the citizens of its 182 Member States.

Countries in order to fulfil their obligations under the Chemical Weapons Convention need to put in place national measures: Declare, secure and destroy all chemical weapons in a timely and verifiable manner, ensuring that they can never be used by anyone, including terrorists:

- Declare any relevant industrial activity;
- Enact legislation to monitor industry and trade in toxic chemicals;
- Restrict access to certain chemicals to those countries that belong to the OPCW;
- Put in place the administrative capacity to detect and pursue a breach of the ban;
- Enact legislation to make any breach a serious crime and to allow for its prosecution and punishment;
- Establish civil protection measures.

Checklist for Legislators

As the legislator will notice in reviewing this checklist, the Convention may impact several areas of law, depending upon the State Party's legal system, for instance: constitutional law, civilian and military statutes and penal codes, customs,

immigration and administrative law, civil and criminal procedure.

Measures required under Article VII, paragraph 1

- Prohibitions:
 - to develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone
 - to use chemical weapons
 - to engage in any military preparations to use chemical weapons
 - to assist encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under the Convention
 - to use riot control agents as a method of warfare
 - to produce, acquire, retain or use Schedule 1 chemicals outside the territories of States Parties or transfer such chemicals outside the State Party's territory except to another State Party
 - to produce, acquire, retain, transfer or use Schedule 1 chemicals except for the purposes listed in VA VI (A)(2)(a)-(d)
 - to retransfer Schedule 1 chemicals
 - to transfer Schedule 1 chemicals outside the regime established by VA VI(B)(5) and VI(B)(5 bis)
 - to produce Schedule 1 chemicals outside the regime established by VA VI(C)
 - to transfer to or receive from States not Party Schedule 2 chemicals
 - to transfer to States not Party Schedule 3 chemicals without first receiving an end-user certificate from the competent government authority of the State not Party
- penal provisions
- extraterritorial application to nationals (natural persons)

Other measures normally necessary:

- definition of chemical weapons
- definition of toxic chemical
- definition of 'purposes not prohibited under this Convention'
- arrangements enabling legal assistance to other States Parties
- designate or establish the National Authority
- mandatory reporting by natural and legal persons of information to the National Authority needed for declarations and notifications to the OPCW
 - Initial declarations of scheduled chemicals and facilities
 - Annual declarations of scheduled chemicals and facilities
- regime for scheduled chemicals:
 - regulation of Schedule 1 production/use
 - criteria for Schedule 2 declarations (thresholds, mixtures – low concentrations)
 - criteria for Schedule 3 declarations (thresholds, mixtures – low concentrations)
 - import/export controls
- licensing of industry
- access to facilities
- Respect for privileges and immunities of inspectors of the OPCW, delegates and staff
- protection of confidential information
- mandate and enforcement powers of the National Authority
- annual submission of information on national protective programmes
- primacy of the Convention
- liability
- enabling inspections (and penalties for interfering with the inspection process or falsifying information)

Existing legislation/regulations to be reviewed to render them consistent with the object and purpose of the Convention

- recognition of the legal capacity, privileges and immunities of the OPCW, delegates and staff, including inspection teams
- granting of multiple entry/exit/transit visas (valid for at least two years) to each inspector/inspection assistant
- entry and exit of inspection equipment
- use of inspection equipment
- custody and transfer of samples
- standing diplomatic clearance number for non-scheduled aircraft
- trade in chemicals
- allocate funds to pay assessed contribution to OPCW budget

Upon completion, and each time legislation is amended or supplemented:

- inform the OPCW of the legislative and administrative measures taken to implement the Convention
- provide the text of national implementing legislation

Article III, IV and V Obligations (of particular importance for States Parties engaged in CW destruction or CWPF destruction/conversion activities)

- ensuring the safety of people and protecting the environment, including site security (storage and destruction facilities)
- CW, CWPF and CWSF declarations
- enabling inspections (and penalties for interfering with the inspection process or falsifying information)

Prosecution of violations of the provisions of the Chemical Weapons Convention

The OPCW is now pursuing universal and effective implementation to ensure that these dangerous materials are used only for legitimate purposes. The list of prosecutions under the relevant national laws demonstrates the clear need to remain vigilant and to be prepared to stop any attempt to make or use chemical weapons by individuals.

Actual prosecutions as reported in the press

Japan, 1995: 12 killed and hundreds seriously injured by sarin gas attack in the Tokyo subway: prosecution of doomsday cult Aum Shinrikyo members

Turkey, 2001: arrest of 5 persons for possession of 15 canisters of mustard gas. Charged with smuggling chemicals and possession of illegal weapons

Italy, 2002: Three Tunisian nationals with ties to al-Qaeda were tried and convicted in Milan for trafficking “toxic chemicals” and explosives and for conspiracy to commit terrorist acts.

United Kingdom, 2002: A secessionist group known as the Scottish National Liberation Army sent up to 16 packages of corrosive caustic soda to various political targets, including the wife of British Prime Minister Tony Blair.

United States, 2002: Joseph Konopka, was sentenced to 23 years in prison for, *inter alia*, possession and planting

chemical weapons, vials containing cyanide in a tunnel of the Chicago subway system.

Mexico, 2002: A truck carrying 76 barrels of sodium cyanide was hijacked in Hidalgo.

United Kingdom, 2003: arrest of 7 persons suspected of producing ricin. Charged under the Chemical Weapons Act and Terrorism Act.

USA, 2003: prosecutions of a former boy scout leader in Spokane for producing ricin (Schedule 1), and arrest of a former university professor for stockpiling and possession of CW (potassium cyanide)

France, 2004: investigation of 15 persons suspected of preparing CW attacks on the Paris metro & Russian targets in France and elsewhere in Europe. Ricin was produced in parents' spare bedroom in a coffee grinder, dried on newspapers and the powder stored in Nivea jars. Some jars found later in UK. At least one more jar still missing.

Italy 2004: In connection with the investigation of the train bombings in Madrid which occurred on 11 March 2004, Italian police obtained information from telephone wiretaps on two suspected terrorists that a woman was preparing a chemical attack on the United States. The transcript of the telephone conversation was forwarded to the United States authorities by the Italian Prosecutor.

Jordan, April 2004: Foiled Al-Qaeda attempt to drive trucks loaded with 20,000 tons of explosives in Jordanian prime minister's office, intelligence headquarters and US Embassy. 71 chemicals in a mix of blister agents, nerve gas, choking agents. Estimated casualties: 80,000 people.

Mexico/Spain, 2004: Extradition proceedings in Mexico regarding 6 Spaniards and 3 Mexicans. Evidence found:

information on how to make CW found in Mexican house. Spain alleges involvement with ETA.

UK, 2004: Five persons indicted for production of chemical weapons, ricin, in a London apartment. One person convicted in 2005 for poison conspiracy..

UK, April 2004: Police interrupted terrorist plot to use osmium tetroxide in a poison gas attack.

USA, May 2004: Arrest of two women for planning to kill one's husband for insurance money, with ricin. Charged with attempted murder, and manufacture, possession, and transport of CW. Also, 3 persons plead guilty to stockpiling CW and firearms, including 800 grams of almost pure sodium cyanide which was found. If mixed with acid, it would create a bomb capable of killing thousands.

USA, June 2004: Incidents in Washington DC area: chlorine bomb thrown in a tavern, chlorine bomb in a mailbox, unidentified chemical bombs thrown into a residence and a school driveway. All meet legislation's definition of CW; tavern bombing also investigated under 2001 Anti-Terrorism Act (5 or more victims)

USA, 2005: 22-year old male arrested for possession of ricin and weapons.

States Parties to the CWC (182)

As of March 2007

Afghanistan

Albania

Algeria

Andorra

Antigua and Barbuda

Argentina

Armenia

Australia

Austria

Azerbaijan

Bahrain

Barbados

Bangladesh	Eritrea
Belarus	Estonia
Belgium	Ethiopia
Belize	Fiji
Benin	Finland
Bhutan	France
Bolivia	Gabon
Bosnia and Herzegovina	Gambia
Botswana	Georgia
Brazil	Germany
Brunei Darussalam	Ghana
Bulgaria	Greece
Burkina Faso	Grenada
Burundi	Guatemala
Cambodia	Guinea
Cameroon	Guyana
Canada	Haiti
Cape Verde	Holy See
Central African Republic	Honduras
Chad	Hungary
Chile	Iceland
China	India
Colombia	Indonesia
Comoros	Iran (Islamic Republic of)
Cook Islands	Ireland
Costa Rica	Italy
Côte d'Ivoire	Jamaica
Croatia	Japan
Cuba	Jordan
Cyprus	Kazakhstan
Czech Republic	Kenya
Democratic Republic of the Congo	Kiribati
Denmark	Kuwait
Djibouti	Kyrgyzstan
Dominica	Lao People's Democratic Republic
Ecuador	Latvia
El Salvador	Lesotho
Equatorial Guinea	Liberia

Libyan Arab Jamahiriya	Poland
Liechtenstein	Portugal
Lithuania	Qatar
Luxembourg	Republic of Korea
Madagascar	Republic of Moldova
Malawi	Romania
Malaysia	Russian Federation
Maldives	Rwanda
Mali	Saint Kitts and Nevis
Malta	Saint Lucia
Marshall Islands	Saint Vincent and the Grenadines
Mauritania	Samoa
Mauritius	San Marino
Mexico	Sao Tome and Principe
Micronesia (Federated States of)	Saudi Arabia
Monaco	Senegal
Mongolia	Serbia
Montenegro	Seychelles
Morocco	Sierra Leone
Mozambique	Singapore
Namibia	Slovakia
Nauru	Slovenia
Nepal	Solomon Islands
Netherlands	South Africa
New Zealand	Spain
Nicaragua	Sri Lanka
Niger	Sudan
Nigeria	Suriname
Niue	Swaziland
Norway	Sweden
Oman	Switzerland
Pakistan	Tajikistan
Palau	Thailand
Panama	The former Yugoslav Republic of Macedonia
Papua New Guinea	Timor Leste
Paraguay	Togo
Peru	Tonga
Philippines	

Trinidad and Tobago	United Republic of Tanzania
Tunisia	United States of America
Turkey	Uruguay
Turkmenistan	Uzbekistan
Tuvalu	Vanuatu
Uganda	Venezuela
Ukraine	Viet Nam
United Arab Emirates	Yemen
United Kingdom of Great Britain and Northern Ireland	Zambia
	Zimbabwe

Signatory States: (6)

Bahamas, Congo, Dominican Republic, Guinea-Bissau, Israel, Myanmar

Non-Signatory States: (7)

Angola, Democratic People's Republic of Korea, Egypt, Iraq, Lebanon, Somalia, Syrian Arab Republic