



**OPCW**

**Technical Secretariat**

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Office of the Legal Adviser and  
International Cooperation and  
Assistance Division  
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**NOTE BY THE TECHNICAL SECRETARIAT**

**LEGAL TECHNICAL ASSISTANCE: REPORT OF THE FIRST MEETING OF THE  
OPCW NETWORK OF LEGAL EXPERTS  
THE HAGUE  
4 – 7 NOVEMBER 2003**

**1. Introduction**

- 1.1 Experts from 42 States Parties participated in the first meeting of the OPCW Network of Legal Experts, convened in The Hague by the Technical Secretariat (hereinafter “the Secretariat”) at the OPCW headquarters building from 4 to 7 November 2003. After the meeting was concluded, this report was drafted solely by a rapporteur from the Secretariat.
- 1.2 When the meeting was opened, the Secretariat made a number of presentations covering the approach followed so far in the delivery of legal technical assistance to States Parties; this included such topics as: the Chemical Weapons Convention’s legislative requirements, enforcement issues, the Article VII action plan, the legal module of the OPCW website, and the Article VIII, paragraph 50, privileges and immunities agreements. The second segment of the meeting consisted of national presentations by the participants on the status of national implementing legislation in their countries, including information as to any problems they had experienced and the assistance that they required. This was followed by a two-day legislation workshop, in which participants engaged in group work and/or bilateral consultations on draft implementation legislation and related issues. The meeting closed with a discussion of suggestions with regard to what work the Network could undertake in the future.

**2. Background and context**

- 2.1 This meeting took place shortly after the Eighth Session of the Conference of the States Parties (hereinafter “the Conference”) which, in decision C-8/DEC.16, dated 24 October 2003, adopted the “Plan of Action Regarding the Implementation of Article VII Obligations”. The formation of the Network was a first step towards implementing the decision taken by the Conference.



- 2.2 Article VII requires States Parties to, *inter alia*, (1) designate or establish a National Authority to serve as the national focal point for effective liaison with the OPCW and other States Parties; and (2) adopt the necessary legislative and administrative measures to implement their obligations under the Convention, including enacting penal legislation. The First Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention (First Review Conference), taking note of the current status of national implementation measures, characterised the status quo as constituting “a major concern,” and called for the development of a plan of action regarding the implementation of Article VII obligations (subparagraphs 7.77 through 7.83(h) of the Report of the First Review Conference (RC-1/5, dated 9 May 2003)).
- 2.3 On 24 October 2003, following the request of the First Review Conference and keeping in mind the recommendation of the Executive Council (hereinafter “the Council”), the Conference approved the Article VII action plan. One element of the plan is an increased emphasis on States Parties lending advice, upon request, to other States Parties in drafting and adopting the national measures necessary to implement the Convention. The Secretariat was requested, *inter alia*, to intensify its work with those States Parties that are having difficulties in adopting the measures required under Article VII and to further develop and improve its implementation support programme (also by mobilising States Parties’ efforts in this regard). The overall timeframe for enacting legislation and/or adopting administrative measures has been placed at no later than the Tenth Session of the Conference, scheduled for November 2005.
- 2.4 In furtherance of that goal, the Secretariat invited States Parties to nominate to this Network legal experts who have an in-depth knowledge of the national implementing legislation required by the Convention. The Secretariat also invited States Parties that had not yet finished drafting their legislation to submit the names of the drafter or other legal expert who was currently engaged in this task (S/363/2003, dated 28 May 2003). Inspired by a similar network that had been created in Latin America and the Caribbean in 2000, the OPCW established its Network of Legal Experts on the basis of the nominations it had received from 60 States Parties. The Latin American Network was created to assist and advise States Parties in that region that were engaged in elaborating the national implementing legislation called for by the Convention, and took advantage of regional similarities among the legal systems, governmental structures, and languages.

### **3. Key points from the proceedings**

- 3.1 Following the orientation and national presentations on 4 to 5 November, the final two days of the meeting were conducted in workshop format. The workshop participants organised themselves into four language groups: English, French, Russian, and Spanish. The English-language group worked through bilateral consultations. The francophone group was coordinated by an expert from Algeria and by a member of the Secretariat; the Russian-language group was coordinated by an expert from Belarus and by a member of the Secretariat, and the Spanish-language group was coordinated by experts from Argentina and Spain.

- 3.2 During the national presentations and discussions, the participants exchanged information on a range of problems that have constituted obstacles to enacting the necessary legislation, some of which are as follows:
- (a) the lack of a translation of the Convention into the local national language;
  - (b) the absence of a National Authority;
  - (c) a lack of knowledge of the basic provisions of the Convention;
  - (d) the lack of national implementing legislation for a number of treaties, leading to competing legislative priorities;
  - (e) the complexity of procedures to draft, adopt, and enforce legislation;
  - (f) a lack of financial resources, especially in relation to funding a consultant to formulate a national chemicals management policy document or to funding a legislative drafter;
  - (g) the constitutional requirement that implementing legislation must be published before it enters into force; there is currently a considerable publication backlog;
  - (h) a lack of logistical support facilitating access to information, such as Internet services and other communication technologies and equipment;
  - (i) internal political problems, including recent armed conflict; and
  - (j) competing political priorities or little political interest in the issues discussed, because the Member State in question has very few declarable chemical activities.
- 3.3 The Secretariat and other States Parties were requested to offer assistance in helping Member States develop outreach programmes aimed at jurists, magistrates, parliamentarians, customs officials, the police, the armed forces, scientists, industry representatives, and individuals/companies that traded in chemicals. During the meeting, four sets of draft legislation were submitted to the Secretariat for comment.
- 3.4 Assistance was offered by Algeria, Argentina, Austria, Belarus, Canada, Czech Republic, Germany, Spain, United Kingdom of Great Britain and Northern Ireland, and United States of America.

#### **4. Conclusions**

##### **Purpose**

- 4.1 By establishing the Legal Network, the OPCW has created an informal working mechanism that facilitates the sharing of experience, the pooling of both resources and information, the development of direct contacts between the legal experts in the States Parties as well as in the Secretariat, and the monitoring of progress with respect to both the drafting of legislation and other national implementation work. The Network also facilitates bilateral, regional, and sub-regional cooperation (for example, during the meeting, the French-speaking States Parties from Africa took the initiative to form their own sub-network to assist each other).

##### **Expansion of the Network of Legal Experts**

- 4.2 The Network is a useful and practical means of offering assistance to Member States as they are preparing legislation and drafting other regulations related to the implementation of the Convention. The Secretariat will continue to urge other States Parties to nominate legal experts to this body.

##### **Increasing and facilitating communication**

- 4.3 Network members will be encouraged to maintain informal bilateral contacts with their colleagues from other States Parties to discuss problems related to such matters as legislation and to the implementation and enforcement of the Convention. In addition to the meetings that take place at the OPCW headquarters, other means of maintaining communication among the legal experts, such as teleconferencing, could also be explored.
- 4.4 A dedicated (private, password-protected) Internet website will be set up to facilitate communication among the Network members. Network members and the Secretariat could regularly use informal communications (for example, e-mail) to exchange information. Network members will be encouraged by the Secretariat to informally and routinely report on their progress and on any problems they are facing.
- 4.5 Network members who provide assistance to other States Parties are encouraged to report on an informal basis to the Secretariat on their activities and the results, including whether there is a need for follow-up (and what kind of follow-up is required).

##### **Assisting Network members and sharing outreach materials**

- 4.6 Experts from the States Parties and from the Secretariat will prepare a resource package (containing, *inter alia*, documentary tools, PowerPoint presentation materials, and other useful information). These materials will be translated into all the official languages of the OPCW, and will be made available to the Network.
- 4.7 Network members are encouraged to check whether their country has any informational material (such as brochures, workshop materials, and educational

materials) that could be exchanged with other legal experts. This material could also be made available to the Network.

### **Means of assistance**

- 4.8 Legislative/regulatory/administrative assistance will be available in a variety of forms, either from or through the Secretariat, or directly between the States Parties themselves. In the event of the latter, paragraph 18 of the action plan (C-8/DEC.16) requests States Parties that lend advice to keep the OPCW informed of their actions and the results they have achieved. Such measures could include the following:
- (a) the referral of a legal expert from the Network who could provide on-site support (assistance with drafting legislation, advice on wider implementation issues, and with declaration- and inspection-related issues, and so on);
  - (b) the development and exchange of relevant documents, publications, and other useful educational, legal, and other materials;
  - (c) the exchange of examples of draft legislation;
  - (d) internships (at the Secretariat or in other Member States);
  - (e) the exchange of information on how to contact experts in those States Parties engaged in working on legislation and other implementation measures; and
  - (f) the provision of information as to what deadlines other legal experts are seeking to meet as they are drafting legislation and assisting with the implementation of the Convention.
- 4.9 The OPCW will work with regional and other organisations to encourage them to make the issue of implementation of the Convention a priority. Measures may include encouraging these organisations to promote an awareness of, and political commitment to, adherence to the Convention and to its implementation, and requesting them to facilitate cooperation and exchanges among other States Parties in the region. Network members are requested to keep the Secretariat informed as to which organisations they consider to be relevant.

### **Future meetings**

- 4.10 The need for further full-scale meetings of the Network will need to be assessed on the basis of the experience that will be gained during the next year. The Network should continue to make use of the workshop format during future meetings. Participants would receive information on the status of national implementation measures before such meetings, thus eliminating the need for formal presentations assessing the current status of these measures.
- 4.11 In addition to larger Network meetings, shorter, more focused, and smaller meetings could be organised around more specific topics (for example, on the development of legal assistance modules for providers of assistance).

Annexes

Annex 1: First Meeting of the OPCW Network of Legal Experts, OPCW Headquarters, The Hague, the Netherlands, 4 – 7 November 2003, Programme

Annex 2 (English only): First Meeting of the OPCW Network of Legal Experts, The Hague, the Netherlands, 4 – 7 November 2003, List of Participants

**Annex 1**

**Meeting of the OPCW Network of Legal Experts  
OPCW Headquarters  
The Hague, the Netherlands  
4 – 7 November 2003**

**PROGRAMME**

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***Monday, 3 November***

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16:00 – Registration  
18:00

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***Tuesday, 4 November***

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08:00 Registration  
09:00 Opening ceremony:  
Introduction by Isaac K. Minta, Acting Legal Adviser  
Opening address by Brian Hawtin, Deputy Director-General

09:30 *Coffee break*

10:00 Legislative Requirements under the CWC<sup>1</sup>, by Brigitta Exterkate, Senior Legal Officer

Enforcement of the CWC, by Lisa Tabassi, Legal Officer

The Action Plan for Article VII, by Ralf Trapp, Senior Planning Officer

Privileges and Immunities of the OPCW, Delegates, the Director-General and Staff, by Samir Mechken, Acting Legal Officer

Report of the Network of Legal Experts of Latin America and the Caribbean, by Ana María Cerini, Argentina

12:30 *Lunch*

14:00 National presentations:  
Brief presentations by the members of the Network of Legal Experts on the status of CWC-implementing legislation in their countries, including problems encountered and/or resolved, outstanding issues, legal assistance provided, and assistance needs

15:30 *Coffee break*

16:00 National presentations, continued  
17:30 Consultations with assistance providers (no interpretation)  
18:30 Adjournment

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<sup>1</sup> The Chemical Weapons Convention

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***Wednesday, 5 November***

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- 09:00 National presentations, continued
- 10:30 *Coffee break*
- 11:00 National presentations, continued
- 12:30 *Lunch*
- 14:00 National presentations, continued
- 15:30 *Coffee break*
- 16:00 National presentations, continued
- 16:30 The Legal Module on the OPCW Website: by Scott Spence, Harvard  
Sussex Researcher
- 17:00 Establishment of working groups and coordination of work for Thursday  
and Friday
- 17:30 Bilateral consultations with assistance providers (no interpretation)
- 18:30 Adjournment

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***Thursday, 6 November***

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- 09:00 Working-group consultations on draft legislation in English, French,  
Russian, and Spanish
- 10:30 *Coffee break*
- 11:00 Working groups, continued
- 13:00 *Lunch*
- 14:00 Working groups, continued
- 15:30 *Coffee break*
- 16:00 Working groups, continued
- 18:00 Adjournment

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***Friday, 7 November***

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- 09:00 Working groups, continued
- 10:30 *Coffee break*
- 11:00 Working groups, continued
- 13:00 *Lunch*
- 14:00 Working groups, continued
- 15:30 *Coffee break*
- 16:00 Summing up of the work carried out in working groups and follow-up  
action: reports by language coordinators
- 18:00 Closing of the meeting



**Annex 2****First Meeting of the OPCW Network of Legal Experts  
The Hague, 4 – 7 November 2003****List of Participants**

<b>Algeria</b>	Mr Mohamed-Hacene Maachi Ministry of Justice Services du Chef du Gouvernement Algiers
<b>Argentina</b>	Ms Ana María Cerini Ministerio de Relaciones Exteriores, Comercio Internacional y Culto Buenos Aires
<b>Austria</b>	Mr Hans Schramml Permanent Representation of Austria to the OPCW The Hague
<b>Bangladesh</b>	Mr Sayed Ahmed Legislative Drafting Wing Ministry of Law, Justice and Parliamentary Affairs Bangladesh Secretariat Dhaka
<b>Belarus</b>	Mr Vitaly Mackay Ministry of Foreign Affairs Minsk
<b>Benin</b>	Col. Mathias Adjou-Moumouni Ministère d'Etat, Chargé de la Defense Nationale Cotonou
<b>Burundi</b>	Mr Tharcisse Midonzi National Authority Ministry of External Relations Bujumbura
<b>Cameroon</b>	Mr Oumarou Chinmoun Ministry of External Relations Yaounde
<b>Canada</b>	Mr Mark Edward Gaillard Canadian Joint Delegation to NATO Brussels
<b>Czech Republic</b>	Mr Jan Chara State Office for Nuclear Safety Prague
<b>El Salvador</b>	Ms Mirna Catalina Borja Franco Ministry of Foreign Affairs San Salvador

<b>Ethiopia</b>	Mr Anteneh Mengistu Kibret Ministry of Trade and Industry Addis Ababa
<b>Gabon</b>	Mr Bernard Bekale-Meviane Ministry of Foreign Affairs Libreville
<b>Georgia</b>	Mr Konstantine Esebua Ministry of Foreign Affairs Tbilisi
<b>Germany</b>	Ms Juliane Lemcke BAFA Eschborn
<b>Indonesia</b>	Mr Bambang Irawan Ministry Coordinator for Political and Security Jakarta-Pusat
<b>Iran</b>	Mr Seyed Ali M. Mousavi Permanent Representation of Iran to the OPCW The Hague
<b>Japan</b>	Mr Tatsuya Abe Permanent Representation of Japan to the OPCW The Hague
<b>Kuwait</b>	Mr Salem R. Al-Shabli National Authority Ministry of Foreign Affairs Safat
<b>Kuwait</b>	Mr Tareq Al-Faraj Permanent Representation of Kuwait to the OPCW The Hague
<b>Kyrgyzstan</b>	Mr Muhammad Irsaliev Ministry of Foreign Affairs Bishkek
<b>Malawi</b>	Mr Ernest M. Makawa Ministry of Foreign Affairs Lilongwe
<b>Mexico</b>	Mr Ulises Canchola Secretaría de Relaciones Exteriores México, D.F.
<b>Morocco</b>	Mr Mohammed Loulladi Ministère de la Justice Rabat
<b>Nicaragua</b>	Mr Eduardo García Herdocia Ministry of Foreign Affairs, National Authority Managua

<b>Nigeria</b>	Ms Stella A. Aburime Federal Ministry of Justice Abuja
<b>Palau</b>	Mr Christopher Boeder Office of the Attorney-General Koror
<b>Peru</b>	Ms María Ysabel Valle-Martínez Ministerio de la Producción, National Authority Lima
<b>Republic of Moldova</b>	Mr Serghei Spataru Ministry of Economy, National Authority Dual-Use Goods Circulation Division Chisinau
<b>Saint Vincent and the Grenadines</b>	Mr Dileep A. Kamat Ministry of Legal Affairs Attorney General's Chambers Kingstown
<b>Serbia and Montenegro</b>	Mr Marko Samardzija Ministry of Foreign Affairs Belgrade, Serbia
<b>Serbia and Montenegro</b>	Ms Nada Vukanic Ministry of Internal Affairs Podgorica, Montenegro
<b>Spain</b>	Mr Jaime Alejandro Ministry of Science and Technology Madrid
<b>Sri Lanka</b>	Mr Naganathan Sivahumaran Legal Draftsman's Department Colombo
<b>Togo</b>	Mr Dabré Gbandjaba Ministère de la Justice Lome
<b>Trinidad and Tobago</b>	Mr Gerard Greene Permanent Representation of Trinidad and Tobago to the OPCW Brussels
<b>Trinidad and Tobago</b>	Mr Eden Charles Ministry of Foreign Affairs Port of Spain
<b>Uganda</b>	Ms Harriet Lwabi Ministry of Justice Kampala

<b>United Arab Emirates</b>	Mr Abdallah Al-Naqbi Permanent Representation of the United Arab Emirates to the OPCW The Hague
<b>United Kingdom of Great Britain and Northern Ireland</b>	Mr Dominic Raab Permanent Representation of the United Kingdom of Great Britain and Northern Ireland to the OPCW The Hague
<b>United States of America</b>	Mr Bernard Leonard Seward, Jr. U.S. Army JAGLCS, CLAMO Charlottesville, Virginia
<b>United States of America</b>	Ms Catherine Randall Pratt U.S. Department of Commerce Washington, D.C.
<b>Uruguay</b>	Mr Enrique Ribeiro Permanent Representation of Uruguay to the OPCW The Hague
<b>Uzbekistan</b>	Mr Samir Muminov National Authority Tashkent
<b>Viet Nam</b>	Mr Tran Huu Buu National Authority, Ministry of Industry International Cooperation Department Hanoi