National Implementation
Entering the Second Phase

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Introduction

• Obligation of National Implementation (Art.7)

• Two Phases
1. National Implementation

- Article 7, paragraph 1
  Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under this Convention. In particular, it shall:
  (a) Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under this Convention, including enacting penal legislation with respect to such activity;
2. OPCW Activities

• “Action Plan” (C-8/DEC.16, 23 October 2003)

• Systematic methodology
  - Evaluate status
  - Identify deficiencies
  - Provide assistance

• Focus on enactment of legislation
3. Japan’s Experience
3.1 Japan’s CWC Implementing Law

- Enacted on 5 April 1995
- Components
  - Objects and Purposes
  - Obligation 1: Prohibition of Chemical Weapons
  - Obligation 2: Submission of declarations
  - Obligation 3: Receipt of inspections
  - Penalties
# 3.1.1 Prohibition of CWs

<table>
<thead>
<tr>
<th>Activity</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Use of CWs</strong> (Art.38)</td>
<td>Imprisonment for two or more years or an indefinite term or Maximum Fine of 10 million yen (84,000 Euro)</td>
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<tr>
<td><strong>Production of CWs</strong> (Art.39 para.1)</td>
<td>Imprisonment for one or more years or a definite term or Maximum Fine of 7 million yen (58,000 Euro)</td>
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<td><strong>Possession and transfer of CWs</strong> (Art.39 para.2)</td>
<td>Imprisonment for ten or less years or Maximum Fine of 5 million yen (42,000 Euro)</td>
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## 3.1.2 Declarations

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<tr>
<th>Schedule 1</th>
<th>Production</th>
<th>Processing</th>
<th>Consumption</th>
<th>Production</th>
<th>Processing</th>
<th>Consumption</th>
<th>Export Import</th>
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<tr>
<td>Art.4</td>
<td>Art.43 para.1</td>
<td>Arts.4&amp;10</td>
<td>Art.10</td>
<td>Art.21</td>
<td>Art.45 para.1</td>
<td>Art.21</td>
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<td>Art.43 para.3</td>
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<td>Art.43 para.3</td>
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<tr>
<td>Schedule 2</td>
<td>Art.24</td>
<td>Art.24&amp;26</td>
<td>Art.26</td>
<td>Art.25</td>
<td>Art.26</td>
<td>Art.28</td>
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<td>Schedule 3</td>
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<td>OCPF</td>
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<td>Art.29</td>
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<td>Art.45 para.1</td>
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</table>
3.2 Compliance

• High level of compliance
  - No breach of prohibition of chemical weapons
  - Approximately 600 declared facilities
  - More than 100 inspected facilities

• One case of failing to submit declarations
3.2.1 Case Study

✓ Company X did not submit declarations on its production activities of a schedule 3 chemical for three years.

• Enforcement Measures

• Prevention of recurrence
  - Conforming behavior
  - Communicative environment
  - Corrective actions
3.2.2 Lessons Learned

• Double functions of legislation
  - In a case of compliance, no measure is required
  - In a case of non-compliance, enforcement measures should be taken

• “Sense of compliance”
Conclusion

• Value of national implementing legislation
• Entering the second phase: from enactment to enforcement
• Important to share a variety of experiences in enforcement among all stakeholders
• Proposal for launching “enforcement engine” on the OPCW website