

The Chemical Weapons Convention

Implementation and Verification

Hugh Chalmers, Researcher, VERTIC

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What is VERTIC?



VERTIC is an independent not-for-profit organization located in London, United Kingdom that promotes the effective verification and implementation of international agreements and related regional and national initiatives.

VERTIC's National Implementation Measures (NIM) Programme advises States on national implementation of the obligations in the following international instruments:

- the Biological Weapons Convention (“BWC”);
- the Chemical Weapons Convention (“CWC”);
- the Convention on the Physical Protection of Nuclear Material (“CPPNM”) (as amended);
- the International Convention for the Suppression of Acts of Nuclear Terrorism (“ICSANT”);
- the Code of Conduct on the Safety and Security of Radioactive Sources and other instruments for the security of nuclear and other radioactive (“RN”) material;
- as well as UN Security Council Resolution 1540 (2004) (“UNSCR 1540”).

The CWC



1993 Chemical Weapons Convention

- Prohibits chemical weapons and regulates activities with scheduled chemicals
- Currently 190 States Parties, 2 signatories, 4 non-signatories
- The Organisation for the Prohibition of Chemical Weapons (OPCW) is the Secretariat (www.opcw.org)
- 54,617 MT of the most sensitive chemical weapons destroyed by 2013
- 96 weapon production facilities declared, 65 destroyed or converted



The CWC



1993 Chemical Weapons Convention: Articles

Article 1: General Obligations

Article 3: Declarations

Articles 4 & 5: Chemical Weapon and Production Facility Procedures

Article 6: Activities not prohibited

Article 7: National Implementation Measures

Annex: Controlled Chemicals

Annex: Implementation and Verification



CWC Implementation



Article 7 – National Implementation Measures

- States shall outlaw any activity prohibited by the CWC
- States shall designate or establish a National Authority to serve as liaison to the OPCW
 - UK: Department of Energy and Climate Change
 - US: State Department

Article 6 – Activities not prohibited by the Convention

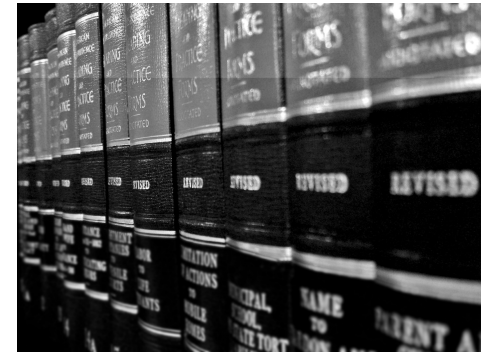
- States shall adopt measures to control the peaceful use of listed chemicals
- The peaceful use of listed chemicals and facilities will be verified by the OPCW.

National Implementation Measures



Which measures do States need to adopt in order to implement the CWC?

- 1) Definitions
- 2) Prohibitions relating to chemical weapons
- 3) Prohibitions relating to scheduled chemicals
- 4) Jurisdiction
- 5) Control measures
- 6) Chemical safety and security
- 7) Legislative enforcement



National Implementation Measures



1) Definitions (*Article II*)

- chemical weapon, toxic chemical, precursor, purposes not prohibited, riot control agent, discrete organic chemical etc.



2) Prohibitions relating to chemical weapons (*Article 1, Article VII and 2*)

- development, production, acquisition, stockpiling, retention, direct and indirect transfers, transportation and use of chemical weapons (*Article I 1 a and b*)
- engaging in military preparations to use chemical weapons (*Article I 1 c*)
- assistance, encouragement, or inducing anyone to engage in prohibited activities (*Article I 1 d*)
- or using riot control agents as a method of warfare (*Article I 5*)

National Implementation Measures



3) Prohibitions relating to scheduled chemicals

- For example:
 - transferring Schedule 1 and 2 chemicals to non-States Parties
 - producing, acquiring, retaining, using, transferring Schedule 1 chemicals without a license
 - transferring Schedule 3 chemicals to non-States Parties without an end-user certificate (Article VI 2)

4) Extending the reach of prohibitions

- to nationals outside of the State's territory (*Jurisdiction, Article VII 1 c*)
- to natural and legal persons (*Article VII 1 b*)

National Implementation Measures



5) Control measures (*Article VI, Verification*)

- *Schedule 1 chemicals:*
 - licensing of production, acquisition, retention, transfer or use for research, medical, pharmaceutical or protective purposes
 - no transfers to non-States Parties and no retransfers
- *Schedule 2 chemicals:*
 - licensing or declaration of production, processing or consumption
 - permits for transfers
 - no transfers to or from non-States Parties

National Implementation Measures



5) Control measures (*Article VI, Verification Annex*)

- *Schedule 3 chemicals:*
 - licensing or declaration of production
 - permits for transfers
 - no transfers to non-States Parties without a permit and an end-user certificate
- *Unscheduled discrete organic chemicals:*
 - Licensing or declaration of production
- *Record-keeping, reporting and confidentiality requirements*

National Implementation Measures



6) Chemical safety and security (*UNSCR 1540*)

- establishing a system for notification of accidents, loss or theft
- training for personnel at chemical facilities
- physical protection (external and internal)
- personnel background checks
- secure transportation (approved carriers, secure containers and packaging, labelling, shipment tracking, etc.)



National Implementation Measures



7) Legislative enforcement

- establishment of National Authority (*Article VII 4*)
- international legal cooperation and assistance (*Article VII 2*)
- international and national inspections (*Article VI 2, Verification Annex*)
- training and special powers for investigation by law enforcement officials and others

Declarations and Verification



Declarations:

- Initial and Annual declarations on present and future stocks
- Details depend upon sensitivity:
 - Only >30MT of Schedule 3 chemicals (basic precursors) must be declared

Verification:

- On-site inspections verify declarations
- Frequency and intensity depend upon sensitivity of chemicals/activities

Clarifications:

- A State Party can ask for clarification of signs of potential non-compliance. Can escalate to OPCW Executive Council
- **Extreme case:** request for Challenge Inspection at *any* site to check compliance

Approaches to National Implementation



- **Stand-alone law**
 - Comprehensive law containing criminal provisions, control measures, safety and security measures, enforcement measures
- **Weapons of Mass Destruction law**
 - Chapter divisions by type of weapon/material (RN, B, C)
 - The accountability and security measures are different for each type of regime
 - Criminal provisions are separated for each type of weapon
 - Transfer permits can be combined for the three regimes
- **Implementation through several laws and regulations**
 - Utilising existing legislation

Benefits of Implementation



What are the benefits of national implementation?

- States can investigate, prosecute and punish any offences, including preparatory acts, associated with chemical weapons committed by non-state actors
- States can monitor and supervise any activities, including transfers, involving scheduled chemicals
- States will enhance their national security and public health and safety
- States with effective and adequate legislation will strongly signal to potential investors that they are a safe and responsible location for activities involving toxic chemicals
- States will be able to comply effectively with international reporting requirements
- Greater access to controlled/listed chemicals
- Access to assistance and protection against the use of CW (Article 10)

Contact VERTIC



- Hugh Chalmers, Researcher,
hugh.chalmers@vertic.org / + 44 20 7065 0880
- Scott Spence, Programme Director,
scott.spence@vertic.org / + 41 79 413 9903
- The Verification Research, Training and Information Centre (VERTIC)
Development House, 56-64 Leonard Street
London EC2A 4LT, United Kingdom
Tel +44 20 7065 0880, Fax +44 20 7065 0890
Web www.vertic.org

